

SESSION LAWS
OF
HAWAII
PASSED BY THE
TWELFTH STATE LEGISLATURE
VOLUME I

REGULAR SESSION
1983

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and
Adjourned sine die on Friday, April 22

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Revisor of Statutes
Honolulu, Hawaii

AUTHORITY

Section 23G-13, Hawaii Revised Statutes, provides as follows:

Publishing of session laws. As soon as possible after the close of each session of the legislature, the revisor of statutes shall prepare for publication all laws duly enacted at such session, arranged in the order of their becoming law, together with a suitable index and tables showing what general statutes have been affected by such session laws.

PREFACE

This volume contains all the laws of the Regular Session of 1983. The text of the laws as enacted is followed except for palpable clerical errors, which have been corrected; and the text is printed in full except for laws repealing existing statutes.

As authorized by HRS §23G-16.5, amendatory legislation contains brackets (designating matter deleted from statutes) or underscoring (designating new matter added). However, the text is edited to omit the bracketed matter for HRS sections repealed in their entirety and to delete the underscoring from new HRS sections.

Explanatory notes appear at the end of the corresponding laws. The notes clarify editorial changes and inconsistencies in text.

SAMUEL B. K. CHANG
Revisor of Statutes

Honolulu, Hawaii
August 31, 1983

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D — Democrats	20
R — Republicans	5

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D — Democrats	44
R — Republicans	7

TABLE OF CONTENTS

	PAGE
List of Acts	x
Text of Acts	1
Tables Showing Effect of Acts:	
A. Sections of Hawaii Revised Statutes Affected	788
B. Session Laws of Hawaii Affected	793
C. Sections of Hawaiian Homes Commission Act of 1920 Affected	793
General Index	794

LIST OF ACTS **TWELFTH STATE LEGISLATURE** **REGULAR SESSION OF 1983**

ACT	BILL	SUBJECT	PAGE
1	H.B. 2	Appropriations—legislature, legislative agencies	1
2	H.B. 275	Insurance—premium rates; reports	2
3	H.B. 276	Insurance—insurer examinations	3
4	S.B. 22	Horizontal property regimes—delinquent assessments	4
5	S.B. 40	Public accountancy board—repeal date	4
6	S.B. 192	Public accountancy board—annual report	6
7	S.B. 194	Public broadcasting authority—rules	8
8	S.B. 242	Pilotage—reports	9
9	S.B. 254	Housing—elderly persons	10
10	S.B. 509	Public employment relations board—quorum	11
11	S.B. 511	Public employment relations board—reports	12
12	S.B. 953	Board of agriculture—membership	15
13	H.B. 876	Insurance—credit unions	16
14	S.B. 1292	Appropriation—Holo Holo settlement	17
15	S.B. 363	Land and natural resources—state management	17
16	S.B. 469	No-fault insurance—premiums	18
17	S.B. 480	Remarriage—alimony	19
18	S.B. 498	Family court—domestic abuse	19
19	S.B. 748	Divorce and separation—support	20
20	S.B. 769	Industrial loan companies—appraisal fees	21
21	S.B. 41	Real estate commission—repeal date	23
22	S.B. 178	Physicians and surgeons—license violations	24
23	S.B. 185	Board of pharmacy—annual report	26
24	S.B. 791	Insurance—claims information	28
25	H.B. 257	Public lands—ineligibility for disposition	29
26	S.B. 448	Firearms—alien law enforcers	29
27	S.B. 481	Family court—appeals	30
28	S.B. 484	Probate code—protective proceedings	31
29	S.B. 558	Securities—exempt transactions	32
30	S.B. 630	Parole—minimum term and recommitment	34
31	S.B. 665	Uniform enforcement of foreign judgements	35
32	S.B. 890	Credit card offenses	37
33	S.B. 1187	First aid—limitation of liability	38
34	H.B. 901	Elections	39
35	S.B. 18	Consumer protection—receiver	50
36	S.B. 42	Elevator mechanics board	51
37	S.B. 115	Uniform unclaimed property act	54
38	S.B. 176	Electricians, plumbers and motion picture operators	71
39	S.B. 179	Mortgage brokers and solicitors	73
40	S.B. 186	Private investigators and guards	78
41	S.B. 203	Children—public assistance	81
42	S.B. 247	Mortgage and collection servicing agents	82
43	S.B. 366	Commission on transportation	83
44	S.B. 507	Wage and hour law—exemptions	84
45	S.B. 525	Drivers—minors	86
46	S.B. 741	Motor vehicles—county controls	87

ACT	BILL	SUBJECT	PAGE
47	S.B. 749	Drivers—license suspension	89
48	S.B. 810	Industrial loan companies—loan fees	90
49	S.B. 907	Land use commission—fees	91
50	S.B. 1288	Boxing	92
51	S.B. 1295	Service corporations	92
52	H.B. 11	District court—jurisdiction	93
53	H.B. 244	Funeral directors and undertakers—license	94
54	H.B. 273	Commerce and consumer affairs—investigatory subpoenas	95
55	H.B. 288	Chiropractic	96
56	H.B. 657	Electricians and plumbers board	98
57	H.B. 1582	Children—support	103
58	S.B. 89	Immigrant services center	103
59	S.B. 134	Wild cattle	104
60	S.B. 502	State bonds—replacement	105
61	S.B. 777	Foreign lenders	109
62	S.B. 889	Fish—spears	110
63	S.B. 915	Commencing prosecution	111
64	S.B. 1175	County bonds	111
65	H.B. 243	Vital statistics—birth certificate	116
66	H.B. 321	Children—support and visitation	116
67	H.B. 329	Solar energy devices—income tax credit	117
68	H.B. 453	Robbery	118
69	H.B. 830	Penal code—conditional discharge or release	119
70	S.B. 117	National guard—active service	119
71	S.B. 182	Board of dispensing opticians	119
72	S.B. 255	Firearms—registration	120
73	S.B. 492	Court transcripts—public defender	121
74	S.B. 519	Board of social services	121
75	S.B. 650	Poultry—labeling	123
76	S.B. 760	Coastal zone management	123
77	S.B. 839	Employees retirement system—specific benefits	123
78	S.B. 1092	Criminal justice data center—civil identification	124
79	S.B. 1186	Family court—domestic abuse	131
80	S.B. 1294	Allowances for legislators	132
81	H.B. 237	Tuberculosis control	133
82	H.B. 240	Congenital syphilis—testing	133
83	H.B. 251	Game birds and mammals—taking	134
84	H.B. 284	Employment agencies—licensing	135
85	H.B. 334	Boating—numbering system; enforcement officer	136
86	H.B. 814	Public housing—accounting procedure	137
87	H.B. 837	Fish—bullpen traps	138
88	H.B. 882	Income tax—IRC conformance	139
89	H.B. 1117	State fairs	147
90	H.B. 1221	Controlled substances—seized property	147
91	S.B. 122	Personal records	149
92	S.B. 177	Physicians and surgeons—licensing	150
93	S.B. 184	Osteopathy	158
94	S.B. 368	Transportation—school vehicles	162
95	S.B. 711	Psychologists	163
96	S.B. 742	Motor vehicles—derelicts	166
97	S.B. 937	General tax credit for 1983	167
98	S.B. 1075	Public utilities commission—hearings	169
99	S.B. 362	Land and natural resources—seizure of property	171
100	S.B. 669	Health—nuisances; food, drugs, and cosmetics	171
101	S.B. 965	Housing—development revolving fund	174
102	H.B. 242	Credit cards—state hospital charges	175
103	H.B. 328	General excise tax—refund	175
104	H.B. 527	Industrial loan companies—prepayment	176

105	H.B. 594	Employees retirement system—investments	177
106	H.B. 1119	Appropriations—claims against the State	181
107	H.B. 1128	Small boat harbors—commercial vessels	184
108	H.B. 1129	Public concessions—bid deposits	185
109	H.B. 1262	Special purpose revenue bonds—ethanol plant	185
110	S.B. 6	Appropriation—criminal injuries compensation	186
111	S.B. 133	Aquatic life, wildlife and plants	195
112	S.B. 556	Corporations—special handling fees	201
113	S.B. 608	Rental assistance	202
114	S.B. 891	Appropriation—mini OTEC settlement	203
115	S.B. 1122	State librarian	204
116	S.B. 1338	Real estate sales—licensing	204
117	H.B. 187	Driving under influence of liquor	208
118	H.B. 225	General obligation bonds—interest rate	210
119	S.B. 180	Nursing	211
120	S.B. 640	Limitation of action—real property improvements	218
121	S.B. 822	Developmental disabilities—council	219
122	S.B. 824	Developmental disabilities—community services	220
123	S.B. 1105	Traffic control—motorcycles	221
124	H.B. 118	Hawaii Revised Statutes—technical revisions	222
125	H.B. 234	Hawaiian home lands—licenses	229
126	H.B. 268	Population planning	230
127	H.B. 914	Industrial loan companies—interest	231
128	H.B. 1285	Sculpture—Kauai state building	236
129	S.B. 570	Penal code—dog fighting	236
130	H.B. 211	Animals—diseases and quarantine	237
131	H.B. 277	Insurance—premiums	238
132	H.B. 452	Penal code—states of mind	238
133	H.B. 514	Counties—boards of zoning appeals	240
134	H.B. 1434	Library materials—detention	241
135	S.B. 181	Nursing homes	241
136	S.B. 191	Psychologists—annual report	243
137	S.B. 787	Horizontal property regimes—generally	246
138	S.B. 800	Design professionals—torts	250
139	S.B. 1254	University of Hawaii—credit equivalency	251
140	S.B. 1279	Environmental quality	253
141	H.B. 43	Agricultural product promotion	261
142	H.B. 166	Medical insurance	263
143	H.B. 236	Hawaiian home lands—management of funds	264
144	H.B. 440	No-fault insurance—optional coverage	269
145	H.B. 519	Fishing—Kailua bay restrictions	271
146	H.B. 684	Landlord and tenant—notice	272
147	H.B. 753	Hawaiian homes commission—membership	273
148	H.B. 1087	Food, drugs, and cosmetics—adulteration or misbranding	274
149	H.B. 1151	Special purpose revenue bonds—hospitals	275
150	H.B. 1380	Unpackaged processed foods	276
151	H.B. 1568	State bonds—negotiated sales	277
152	S.B. 1062	High technology development	280
153	S.B. 555	Public records—service fees	295
154	S.B. 1247	Traffic records	297
155	H.B. 304	Architects, engineers, and surveyors	299
156	H.B. 319	Housing—county bonds	305
157	H.B. 402	Youth correctional facilities	308
158	H.B. 411	Public employment—advisory committee on training	308
159	H.B. 502	Health—congenital diseases	309
160	H.B. 535	Administrative procedure	310
161	H.B. 576	Penal code—gambling	310
162	H.B. 844	Stadium authority—unclaimed property	311

ACT	BILL	SUBJECT	PAGE
163	H.B. 1231	Housing loan and mortgage program	312
164	H.B. 1232	Housing projects—county approval	312
165	H.B. 1401	Special purpose revenue bonds—Wahiawa general hospital	313
166	H.B. 1620	Cooperative housing—leases	314
167	S.B. 55	Hawaii business corporation act	314
168	S.B. 80	Family court—juveniles	315
169	H.B. 752	School vandalism	316
170	H.B. 1123	Land and natural resources board—hearings	318
171	H.B. 1417	Child protective act	320
172	S.B. 569	Penal code—sanity examinations	345
173	S.B. 631	Psychiatric facilities—involuntary commitment	346
174	S.B. 994	Appropriation—Molokai general hospital	351
175	S.B. 1003	Uniform land sales practices	352
176	H.B. 45	Appropriation—sugar research and development	367
177	H.B. 210	Chicken eggs	368
178	H.B. 253	Public lands—developmental leases	370
179	H.B. 256	Public lands—utility easements	374
180	H.B. 269	Community development authority—membership	375
181	H.B. 282	Boards and commissions—reinstatement of licenses	376
182	H.B. 313	Penal code—place of imprisonment	378
183	H.B. 546	Hansen's disease—patient employees	378
184	H.B. 663	Penal code—notice to victims	380
185	H.B. 670	Appropriation—Kauai, hurricane relief	382
186	H.B. 1102	Family court—domestic protective order	383
187	H.B. 1266	Divorce—restraint of property	384
188	H.B. 1317	Motor vehicles—size and weight	385
189	H.B. 1342	Penal code—psychological or psychiatric treatment	387
190	H.B. 1567	Employees retirement system—investment yield	388
191	H.B. 1201	Name—industrial loan implication	388
192	H.B. 72	Nursing home without walls	389
193	H.B. 809	Occupational and career information	392
194	S.B. 833	Job training partnership—authorization	396
195	S.B. 834	Job training partnership—dislocated workers	397
196	H.B. 325	Public assistance—children	398
197	H.B. 337	Motor vehicles—mopeds	401
198	H.B. 338	University of Hawaii—teacher education coordinating committee	402
199	H.B. 467	Family court—juvenile procedure	403
200	H.B. 621	Speech pathologists and audiologists	404
201	H.B. 659	Contractors—licensing board	405
202	H.B. 702	Office of Hawaiian affairs—budget	408
203	H.B. 708	Residential leaseholds—eminent domain	409
204	H.B. 710	Residential leaseholds—eminent domain	410
205	H.B. 757	Temporary disability insurance	411
206	H.B. 765	Taxation—nonresident spouse	412
207	H.B. 768	No-fault insurance—insurer reimbursement	415
208	H.B. 796	Family court—district judges	416
209	H.B. 800	Divorce—property division	416
210	H.B. 810	Beauty culture	417
211	H.B. 811	Insurance—unfair practices	423
212	H.B. 3	Tax review commission	433
213	H.B. 34	Human services—confidentiality	434
214	H.B. 42	Feed—adulteration	436
215	H.B. 44	Agricultural planning and development	446
216	H.B. 69	Determination of death	448
217	H.B. 80	Estate and transfer tax	448
218	H.B. 278	Insurance—rate filings	458
219	H.B. 280	Public utilities	459
220	H.B. 291	Dentistry	460

ACT	BILL	SUBJECT	PAGE
221	H.B. 389	Industrial loans and small loans—payments	465
222	H.B. 390	Quieting title	467
223	H.B. 499	Medical torts	468
224	H.B. 812	Commerce and consumer affairs—injunctive powers	472
225	H.B. 813	Factory-built housing	473
226	H.B. 913	Industrial loan companies—sale of loans	474
227	H.B. 992	Dogs	475
228	H.B. 1061	Housing—tax exemptions	478
229	H.B. 1090	Liquor—pool buying agreements	479
230	H.B. 1115	Service corporations	480
231	H.B. 1153	Peer review—immunity	480
232	H.B. 1304	Industrial loan companies—guaranty	481
233	H.B. 1580	Industrial loan companies—guaranty	481
234	S.B. 30	General excise tax—rental collections	484
235	S.B. 756	Film production industry	485
236	S.B. 1057	Driver education instructors	488
237	H.B. 6	Counties—pollution control	489
238	H.B. 10	District court—jurisdiction	500
239	H.B. 277	Planning and economic development—functions generally	501
240	H.B. 286	Barbering	504
241	H.B. 287	Boxing commission	508
242	H.B. 289	Chiropractic	515
243	H.B. 703	Electricity—nonfossil fuel	516
244	H.B. 783	Retired judges—temporary assignment	517
245	H.B. 915	No-fault insurance—uninsured motorists	518
246	H.B. 1037	Divorce and separation—restraining order	523
247	H.B. 1121	Hospital administration	524
248	H.B. 1294	Spouse abuse	525
249	H.B. 1363	District courts—powers	527
250	H.B. 1399	Molokai—tree farms	530
251	H.B. 1438	Name—change	532
252	H.B. 1583	Medicaid	534
253	H.B. 1602	Industrial loan companies—leasing of property	535
254	H.B. 1621	Housing—reappropriation of funds	536
255	S.B. 343	Public employment—model conversion plan	537
256	H.B. 182	School priority fund—report	537
257	H.B. 208	Grades and standards	538
258	H.B. 209	Farm produce dealers	546
259	H.B. 239	Syphilis and rubella	548
260	H.B. 245	Board of health—membership	550
261	H.B. 274	No-fault insurance—payment of benefits	551
262	H.B. 1190	Appropriation—emergency farm loans	554
263	H.B. 1528	Workers compensation—investment income	555
264	S.B. 605	School health nurses	557
265	H.B. 713	Corporations—capital surplus	558
266	H.B. 1496	Intake service centers	559
267	H.B. 1050	Firearms	559
268	H.B. 1088	Gasoline dealers	560
269	H.B. 817	Housing—Hula Mae	562
270	H.B. 314	Residential leasehold—fee title acquisition loans	562
271	H.B. 1028	Disasters—price control	571
272	H.B. 1237	Bicycle licenses	572
273	H.B. 393	Agricultural lands—evaluation and site assessment	573
274	S.B. 757	Contractors—federal projects	575
275	H.B. 1402	Contractors license board	577
276	H.B. 658	Engineers, architects, and surveyors	578
277	S.B. 806	Public contracts—prompt payment	579
278	H.B. 1018	International banking facilities	580

ACT	BILL	SUBJECT	PAGE
279	H.B. 866	Shopping devices—unauthorized removal	585
280	H.B. 114	Hemophilia	587
281	H.B. 1557	Penal code—defendant in custody of health director	588
282	H.B. 890	Child passenger restraints	589
283	S.B. 4	Capital improvements act of 1983	590
284	S.B. 236	Medical torts—mastectomy	604
285	S.B. 904	Office machine dealerships	606
286	S.B. 1251	Conveyance tax	608
287	H.B. 5	State bonds—authorization	610
288	H.B. 322	Paternity	615
289	H.B. 340	Acupuncture practitioners	617
290	H.B. 351	Nolo contendere pleas	617
291	H.B. 387	Judiciary budget	618
292	H.B. 1243	Intoxicating liquor—dispensers' licenses	627
293	H.B. 1587	Intoxicating liquor—primary source of supply	630
294	H.B. 601	Motor vehicles—sun screening devices	632
295	S.B. 735	Certified public accountants	634
296	S.B. 903	Geothermal resources development—subzones	636
297	S.B. 977	Hawaii security net	640
298	H.B. 722	Superintendent of education—report	642
299	H.B. 1531	Workers compensation—moratorium	643
300	H.B. 1505	Special purpose revenue bonds—Aloha Studios, Inc.	643
301	H.B. 1	State budget—general appropriation act of 1983	644

**Session Laws of Hawaii
Passed By The
Twelfth State Legislature
Regular Session
1983**

ACT 1

H.B. NO. 2

A Bill for an Act Making Appropriations to Provide for the Expenses of the Legislature, the Legislative Auditor, the Legislative Reference Bureau, and the Ombudsman.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,250,476, or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the Senate up to and including June 30, 1984, including but not limited to the 1983 regular session, Twelfth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1983 and 1984 regular sessions.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,921,541, or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the House of Representatives up to and including June 30, 1984, including but not limited to the 1983 regular session, Twelfth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1983 and 1984 regular sessions.

SECTION 3. Payment of expenses of the Senate during the interim between the 1983 and 1984 regular sessions shall be made only with the approval of the President of the Senate, and payment of expenses of the House of Representatives during the interim between the 1983 and 1984 regular sessions shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 18, 1984, the Senate and the House of Representatives shall have their accounts audited and a full report of such audit shall be presented to the Senate and to the House of Representatives of the Legislature convening on January 18, 1984.

ACT 2

SECTION 5. The expenses of any member of the Legislature while traveling abroad on official business of the Legislature shall not be limited by the provision of section 78-15, Hawaii Revised Statutes, or by any other general statute. Until otherwise prescribed by law, the expenses of such member shall be \$65 a day and authorized by the President of the Senate and the Speaker of the House of Representatives, respectively.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,607,734 to the office of the legislative auditor for the following expenses: (a) the sum of \$1,308,038, or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1983-84, (b) the sum of \$149,696, or so much thereof as may be necessary, for defraying the expenses of the office of the state ethics commission from the date of approval to June 30, 1984, (c) the sum of \$150,000, or so much thereof as may be necessary during the fiscal year 1983-84, for (1) performing special studies, (2) improving capabilities for planning, programming and budgeting, (3) fulfilling other special requests made of the legislative auditor by the Legislature or jointly by the President of the Senate and the Speaker of the House of Representatives, (4) legislative studies and for contractual services for such studies, and (5) such other purposes as may be determined by the joint action of the President of the Senate and the Speaker of the House of Representatives.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,514,522, or so much thereof as may be necessary, to the legislative reference bureau for defraying the expenses of the bureau during the fiscal year 1983-84, including equipment relating to computer systems programming and operations for the purpose of improving the efficiency of legislative operations including, but not limited to, bill drafting, statutory and information retrieval, status of legislative actions, and reproductions of legislative material.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$359,214, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during the fiscal year 1983-84.

SECTION 9. As of the close of business on June 30, 1984, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 10. Each section of this Act is declared to be severable from the remainder of this Act.

SECTION 11. This Act shall take effect upon its approval.

(Approved February 3, 1983.)

ACT 2

H.B. NO. 275

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 294-16, Hawaii Revised Statutes, is amended to read:

“§294-16 [Annual report of the commissioner; publication] Publication of premium rates. [(a) The commissioner shall prepare and submit to the legislature annually, twenty days prior to the convening of each regular session, a report containing his evaluation of the insurance program, with respect to both required and optional coverages. The report shall include a summary of abuses and deficiencies in benefit payments, the complaints made to the commissioner and their disposition, the extent of compliance and noncompliance by each insurer with the provisions of this chapter and any applicable provision of the Hawaii insurance law, and his reasons for making and establishing rates, classifications, rules, rating plans, and policy forms of insurers.

(b)] The commissioner shall publish annually in a newspaper of general circulation in the State a list of all motor vehicle insurers with representative annual premiums for motor vehicle insurance.”

SECTION 2. Section 431-45, Hawaii Revised Statutes, is amended to read:

“§431-45 Annual report. The insurance commissioner, as early each year as accurate preparation enables, shall [make] prepare and [publish] submit to the legislature a report which shall contain:

(1) The condition of all insurers authorized to do business in this State during the preceding year.

(2) A summary of abuses and deficiencies in benefit payments, the complaints made to the commissioner and their disposition, and the extent of compliance and noncompliance by each insurer with the provisions of this chapter and any applicable provision of the Hawaii no-fault law.

[(2)] (3) Such additional information and comments relative to insurance activities in this State as [he] the commissioner deems proper.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 14, 1983.)

ACT 3

H.B. NO. 276

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431-59, Hawaii Revised Statutes, is amended to read:

“§431-59 Examination expense. (a) Examinations of any insurer coming under this chapter made by the insurance commissioner or his examiners and employees shall, including fees, mileage, [and expense incurred as to witnesses,] and other related expenses, be at the expense of the insurer examined.

(b) The insurer examined and liable therefor shall pay to the [commissioner’s examiners] commissioner upon presentation of an itemized statement

ACT 4

thereof, [their] the actual travel expenses, [their] reasonable living expense allowance, [and their] per diem compensation at a reasonable rate approved by the commissioner, and other related expenses incurred by the commissioner or his examiners and employees on account of the examination. All payments collected by the commissioner shall be remitted to the director of finance and shall be placed to the credit of the general fund of the State. The commissioner or his examiners shall not receive or accept any additional emolument on account of any examination."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 14, 1983.)

ACT 4

S.B. NO. 22

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 514A-85, Hawaii Revised Statutes, is amended to read as follows:

"[[§514A-85]] Books of receipts and expenditures; unpaid assessments; availability for examination. The manager or board of directors shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. The manager or board of directors shall also keep monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses. All records and the vouchers authorizing the payments, and statements shall be kept and maintained at the address of the project, or elsewhere within the State as determined by the board of directors, and shall be available for examination by the apartment owners at convenient hours of week days."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 26, 1983.)

ACT 5

S.B. NO. 40

A Bill for an Act Relating to Accountants.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 [[NEW]] Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1983:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- [(4)] Chapter 466 (Board of Public Accountancy)
- (5)] (4) Chapter 467 (Real Estate Commission)
- [(6)] (5) Chapter 448H (Elevator Mechanics Licensing Board)

(b) The following chapters are hereby repealed effective December 31, 1984:

- (1) Chapter 436D (Board of Acupuncture)
- (2) Chapter 442 (Board of Chiropractic Examiners)
- (3) Chapter 448 (Board of Dental Examiners)
- (4) Chapter 453 (Board of Medical Examiners)
- (5) Chapter 457 (Board of Nursing)
- (6) Chapter 447 [(Board)] (Dental Hygienists)
- (c) The following chapters are hereby repealed effective December 31,

1985:

- (1) Chapter 460 (Board of Osteopathic Examiners)
- (2) Chapter 461 (Board of Pharmacy)
- (3) Chapter 455 (Board of Examiners in Naturopathy)
- (4) Chapter 463E (Podiatry)
- (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (d) The following chapters are hereby repealed effective December 31,

1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 438 (Board of Barbers)
- (6) Chapter 439 (Board of Cosmetology)
- (e) The following chapters are hereby repealed effective December 31,

1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)
- (f) The following chapters are hereby repealed effective December 31,

1988:

- (1) Chapter 465 (Board of Certification for Practicing Psychologists)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)

ACT 6

- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)[.]
- (g) The following chapter is hereby repealed effective December 31, 1989:
- (1) Chapter 466 (Board of Public Accountancy)."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 26, 1983.)

ACT 6

S.B. NO. 192

A Bill for an Act Relating to Public Accountancy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 466-4, Hawaii Revised Statutes, is amended to read as follows:

"§466-4 Board of public accountancy. (a) **Members.** There shall be a board of public accountancy to be known as the state board of public accountancy, which shall consist of nine members appointed by the governor in the manner prescribed in section 26-34. All members of the board shall be citizens of the United States and residents of this State. Five members thereof shall be certified public accountants in active practice holding current certificates as such and current permits to practice public accountancy, issued under this chapter. Two members thereof shall be public accountants in active practice holding current registrations as such and current permits to practice public accountancy issued under this chapter and two shall be public members.

(b) **Removal.** The governor shall remove or suspend any member of the board for cause, in accordance with the provisions of section 26-34, including any member thereof (1) who ceases to engage in active practice as a certified public accountant or as a public accountant, as the case may be, or (2) whose certificate of certified public accountant or registration of public accountant, as the case may be, or whose permit to practice public accountancy (i) has been cancelled, revoked, or suspended, (ii) has expired without renewal, or (iii) has otherwise become invalid.

(c) **Organization.** The board shall elect annually a chairman and a secretary-treasurer from its members. The board shall conduct its meetings and keep records of its proceedings in accordance with the provisions of chapter 92.

(d) **Compensation and expenses.** Members of the board of accountants shall not receive any compensation for performance of the duties imposed upon them by this chapter, but shall be entitled to necessary traveling expenses.

(e) **Employees.** The director of [regulatory agencies] commerce and consumer affairs shall employ clerks, proctors, examiners and other personnel under the provisions of chapters 76 and 77 to assist the board in the performance of its duties.

(f) Powers. The board may, in accordance with the provisions of chapter 91, (1) conduct investigations and hearings, either upon complaint or on its own motion on any matter involving the conduct of certified public accountants or public accountants or the violation of any of the provisions of this chapter, and (2) adopt, amend, and repeal rules [and regulations] with the approval of the governor and the director of [regulatory agencies,] commerce and consumer affairs, and issue decisions, orders and declaratory rulings, for the orderly conduct of its affairs and for the administration of this chapter including, but not limited to, rules [and regulations] governing professional qualifications, continuing education and professional conduct, and the affiliations of individuals, partnerships and corporations for the practice of public accountancy, as it deems appropriate to establish and maintain high standards of competence and integrity in the practice of public accountancy.

[(g) Annual report. The board shall prepare and present an annual report to the governor through the director of regulatory agencies which shall include a statement of the board's activities and its receipts and expenditures during the preceding year, together with such recommendations as the board shall determine to be appropriate.

(h)] (g) Existing board. A person who, on January 1, 1974, was serving as a member of the board of public accountants theretofore existing under the laws of this State shall be permitted to continue without reappointment as a member of the State board of public accountancy established in this section for the duration of the term in which he was previously appointed, but shall otherwise be subject to all the provisions of this chapter; and his appointment as a member of the previous board shall, for all purposes, be considered as made under this chapter and subject to the provisions hereof."

SECTION 2. Section 466-8, Hawaii Revised Statutes, is amended to read as follows:

"§466-8 Fees. (a) Examination. An applicant for admission to the examination described in section 466-5(d) shall pay a fee with such application for admission in such amount as the board shall prescribe by [regulation.] rule. The board may also prescribe by [regulation] rule the terms and conditions upon which an applicant who is unable to attend such examination may receive a credit in the amount of the fee paid toward a subsequent examination.

(b) Issuance of certificate or registration. An applicant for the issuance of a certificate of certified public accountant under section 466-5(a) or a registration of public accountant under section 466-6(a) shall pay a fee with such application in such amount as the board shall prescribe by [regulation.] rule.

(c) Renewal of certificate or registration. An applicant for the renewal of a current certificate of certified public accountant under section 466-5(a) or for the renewal of a registration of public accountant under section 466-6(a) shall pay a fee of \$30 biennially in each odd-numbered year on or before December 31. An applicant for the renewal of a certificate of certified public accountant or for the renewal of a registration of public accountant which is not current under the provisions of this chapter or under the laws of this State theretofore existing shall pay a fee with such application for renewal in an amount equal to twice the amount

ACT 7

of the fees which the applicant would have paid had he timely renewed such certificate or registration since the date it was last current.

(d) Biennial permits to practice. An applicant for the issuance of a biennial permit to practice under section 466-7(a) who is in the practice of public accountancy in his own name as a sole proprietor, or as a partner of a partnership in the practice of public accountancy, or as a shareholder of a corporation in the practice of public accountancy, shall pay a fee with such application in the amount of \$30. All other applicants for the issuance of a biennial permit to practice shall pay a fee of \$10.

(e) Temporary permits to practice. An applicant for the issuance of a temporary permit to practice under section 466-7(b) shall pay a fee with such application in the amount of \$30.

(f) Disposition of fees. All fees and other monies received by the board pursuant to the provisions of this chapter shall be deposited by the director of [regulatory agencies] commerce and consumer affairs with the director of finance to the credit of the general fund."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 26, 1983.)

ACT 7

S.B. NO. 194

A Bill for an Act Making an Amendment to Section 314-8, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to amend Section 314-8, Hawaii Revised Statutes, to enable the Hawaii Public Broadcasting Authority to make, amend and repeal rules and regulations needed in the conduct of its operations.

SECTION 2. Section 314-8, Hawaii Revised Statutes, is amended to read as follows:

"**[§314-8] Powers.** Except as otherwise provided in this chapter, the board may do all acts necessary to carry out the purposes of the authority, including but not limited to:

- (1) Establishing public broadcasting facilities and governing, controlling and operating each facility.
- (2) Establishing policies for the use of and charges for production services and broadcast facilities, including the use of and charges for air time.
- (3) Establishing policies for the allocation of air time, including the basic allocation of air time between instructional television and public television.

- (4) Applying for, receiving, and holding such authorizations and licenses and assignments and reassignments of channels from the federal communications commission as may be necessary to conduct its operations.
- (5) Establishing and abolishing advisory committees as it deems necessary for technical and program assistance.
- (6) Contracting with program production organizations, individuals, and noncommercial educational television stations within and without the State to produce, or otherwise to procure, programs for use by non-commercial stations within the State.
- (7) Making arrangements, where appropriate, with companies or other agencies and institutions operating suitable interconnection facilities.
- (8) Soliciting and receiving funds from private sources.
- (9) Adopting rules pursuant to chapter 91 necessary for the purposes of this chapter."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 26, 1983.)

ACT 8

S.B. NO. 242

A Bill for an Act Relating to Pilotage.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 462A-3, Hawaii Revised Statutes, is amended to read:

"**[§462A-3] Powers and duties of the board.** The board shall have powers and perform the duties hereinafter set forth and such other powers and duties as may be provided by law:

- (1) Adopt rules pursuant to chapter 91, not inconsistent with law, which shall be binding upon all pilots licensed by the board and upon all parties employing such pilots; and from time to time, revise or amend such rules as may be necessary to enable the board to carry into effect the provisions of this chapter. The rules shall include but shall not be limited to:
 - (A) Establishment of the qualifications of and examinations for any person applying for a pilot's license;
 - (B) Issuance, suspension, or revocation of any pilot's license and regulation of the number of pilots that may be licensed;
- (2) Hear and decide complaints made in writing against any pilot for any misbehavior or neglect or breach of rules, which it deems material to be investigated;
- (3) Administer oaths and compel the attendance of witnesses at such hearings as it may conduct;

ACT 9

- [(4) Make an annual report to the governor for the preceding calendar year, including an account of the amounts paid to the State;
- (5)] (4) Do all things reasonable, necessary; and expedient to insure proper and safe pilotage and to facilitate the efficient administration of this chapter."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 26, 1983.)

ACT 9

S.B. NO. 254

A Bill for an Act Relating to State Housing Projects.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 359-62, Hawaii Revised Statutes, is amended to read as follows:

"§359-62 Tenant selection; dwelling accommodations; rentals. In the administration of housing projects the Hawaii housing authority shall at all times observe the following duties in regard to tenant selections, dwelling accommodations, and rentals:

- (1) Except as hereinafter provided, it shall accept only elderly persons as tenants in the housing projects.
- (2) It may accept as tenants in any [such] housing project [a husband and wife, or two or more members of the same family;] one or more persons; provided[, that each [such] person is an elderly person. It may also accept as a tenant in any [such] dwelling accommodation or in any [such] project, in case of the illness or other disability of an elderly person who is a tenant in the dwelling accommodation or in the project, [such] a person [as shall be] designated by the elderly person as [his or her] the elderly person's companion and who is approved by the authority, although the person is not an elderly person; provided[, any such] that the person shall cease to be a tenant therein upon the recovery of, or removal from the project of, the elderly person.
- (3) It may rent or lease to an elderly person a dwelling accommodation consisting of [such] any number of rooms as [it] the authority deems necessary or advisable to provide safe and sanitary accommodations to the proposed occupant or occupants thereof without overcrowding.
- (4) Notwithstanding that the elderly person has no written rental agreement or that it has expired, so long as the elderly person continues to tender the usual rent to the authority or proceeds to tender receipts for rent lawfully withheld, no action or proceeding to recover possession of the dwelling unit may be maintained against the elderly person, nor shall the authority otherwise cause the elderly person to quit the dwelling unit involuntarily, demand an increase in rent from the elderly person,

or decrease the services to which the elderly person has been entitled during hospitalization of the elderly person due to illness or other disability.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 26, 1983.)

ACT 10

S.B. NO. 509

A Bill for an Act Relating to the Hawaii Public Employment Relations Board.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 89-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) There is created a Hawaii public employment relations board composed of three members of which (1) one member shall be representative of management, (2) one member shall be representative of labor, and (3) the third member, the chairman, shall be representative of the public. All members shall be appointed by the governor for terms of six years each, except that the terms of members first appointed shall be for four, five, and six years respectively as designated by the governor at the time of appointments. Public employers and employee organizations representing public employees may submit to the governor for consideration names of persons representing their interests to serve as members of the board and the governor shall first consider these persons in selecting the members of the board to represent management and labor. Each member shall hold office until his successor is appointed and qualified. Because cumulative experience and continuity in office are essential to the proper administration of this chapter, it is declared to be in the public interest to continue board members in office as long as efficiency is demonstrated, notwithstanding the provision of section 26-34, which limits the appointment of a member of a board or commission to two terms.

The members shall devote full time to their duties as members of the board. Effective July 1, 1981, the salary of the chairman of the board shall be \$46,750 a year, and the salary of each of the other members shall be \$44,413 a year. Effective July 1, 1982, the salary of the chairman of the board shall be \$47,520 a year, and the salary of each of the other members shall be \$44,550 a year. No member shall hold any other public office or be in the employment of the State or a county, or any department or agency thereof, or any employee organization during his term.

Any action taken by the board shall be by a simple majority of the members of the board. All decisions of the board shall be reduced to writing and shall state separately its finding of fact and conclusions. [Three members of the board, consisting of the chairman, at least one member representative of management, and at least one member representative of labor, shall constitute a quorum.]. Any vacancy in the board[,] shall not impair the authority of the remaining members to exercise all the powers of the board. The governor may appoint an acting member of

ACT 11

the board during the temporary absence from the State or the illness of any regular member. An acting member, during his term of service, shall have the same powers and duties as the regular member.

The chairman of the board shall be responsible for the administrative functions of the board. The board may appoint an executive officer, mediators, members of fact-finding boards, arbitrators, and hearing officers, and employ other assistants as it may deem necessary in the performance of its functions, prescribe their duties, and fix their compensation and provide for reimbursement of actual and necessary expenses incurred by them in the performance of their duties within the amounts made available by appropriations therefor. The provisions of section 103-3 notwithstanding, an attorney employed by the board as a full-time staff member may represent the board in litigation, draft legal documents for the board, and provide other necessary legal services to the board and shall not be deemed to be a deputy attorney general.

The board shall be within the department of labor and industrial relations for budgetary and administrative purposes only. The members of the board and employees other than clerical and stenographic employees shall be exempt from chapters 76 and 77. Clerical and stenographic employees shall be appointed in accordance with chapters 76 and 77.

At the close of each fiscal year, the board shall make a written report to the governor of such facts as it may deem essential to describe its activities, including the cases and their dispositions, and the names, duties, and salaries of its officers and employees. Copies of the report shall be transmitted to the legislative bodies and to the public management committee."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 26, 1983.)

Note

1. No underscored material.

ACT 11

S.B. NO. 511

A Bill for an Act Relating to the Hawaii Public Employment Relations Board.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 89-5, Hawaii Revised Statutes, is amended to read:

"¹(a) There is created a Hawaii public employment relations board composed of three members of which (1) one member shall be representative of management, (2) one member shall be representative of labor and (3) the third member, the [chairman,] chairperson, shall be representative of the public. All members shall be appointed by the governor for terms of six years each, except that the terms of members first appointed shall be for four, five, and six years respectively as designated by the governor at the time of appointments. Public employers

and employee organizations representing public employees may submit to the governor for consideration names of persons representing their interests to serve as members of the board and the governor shall first consider these persons in selecting the members of the board to represent management and labor. Each member shall hold office until his successor is appointed and qualified. Because cumulative experience and continuity in office are essential to the proper administration of this chapter, it is declared to be in the public interest to continue board members in office as long as efficiency is demonstrated, notwithstanding the provision of section 26-34, which limits the appointment of a member of a board or commission to two terms.

The members shall devote full time to their duties as members of the board. Effective July 1, 1981, the salary of the [chairman] chairperson of the board shall be \$46,750 a year, and the salary of each of the other members shall be \$44,413 a year. Effective July 1, 1982, the salary of the [chairman] chairperson of the board shall be \$47,520 a year, and the salary of each of the other members shall be \$44,550 a year. No member shall hold any other public office or be in the employment of the State or a county, or any department or agency thereof, or any employee organization during his term.

Any action taken by the board shall be by a simple majority of the members of the board. All decisions of the board shall be reduced to writing and shall state separately its finding of fact and conclusions. Three members of the board, consisting of the [chairman,] chairperson, at least one member representative of management, and at least one member representative of labor, shall constitute a quorum. Any vacancy in the board[,] shall not impair the authority of the remaining members to exercise all the powers of the board. The governor may appoint an acting member of the board during the temporary absence from the State or the illness of any regular member. An acting member, during his term of service, shall have the same powers and duties as the regular member.

The [chairman] chairperson of the board shall be responsible for the administrative functions of the board. The board may appoint an executive officer, mediators, members of fact-finding boards, arbitrators, and hearing officers, and employ other assistants as it may deem necessary in the performance of its functions, prescribe their duties, and fix their compensation and provide for reimbursement of actual and necessary expenses incurred by them in the performance of their duties within the amounts made available by appropriations therefor. The provisions of section 103-3 notwithstanding, an attorney employed by the board as a full-time staff member may represent the board in litigation, draft legal documents for the board, and provide other necessary legal services to the board and shall not be deemed to be a deputy attorney general.

The board shall be within the department of labor and industrial relations for budgetary and administrative purposes only. The members of the board and employees other than clerical and stenographic employees shall be exempt from chapters 76 and 77. Clerical and stenographic employees shall be appointed in accordance with chapters 76 and 77.

At the close of each fiscal year, the board shall make a written report to the governor of such facts as it may deem essential to describe its activities, including

ACT 11

the cases and their dispositions, and the names, duties, and salaries of its officers and employees. Copies of the report shall be transmitted to the legislative bodies [and to the public management committee].

(b) In addition to the powers and functions provided in other sections of this chapter, the board shall:

- (1) Establish procedures for, investigate, and resolve, any dispute concerning the designation of an appropriate bargaining unit and the application of section 89-6 to specific employees and positions;
- (2) Resolve any dispute concerning cost items;
- (3) Establish procedures for, resolve disputes with respect to, and supervise the conduct of, elections for the determination of employee representation;
- (4) Conduct proceedings on complaints of prohibited practices by employers, employees, and employee organizations and take such actions with respect thereto as it deems necessary and proper;
- (5) Hold such hearings and make such inquiries, as it deems necessary, to carry out properly its functions and powers, and for the purpose of such hearings and inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate such powers to any member of the board or any person appointed by the board for the performance of its functions;
- (6) Establish, after reviewing nominations submitted by the public employers and employee organizations, lists of qualified persons, broadly representative of the public, to be available to serve as mediators, members of fact-finding boards, or arbitrators;
- (7) Establish daily or hourly rates at which mediators, members of fact-finding boards, and arbitrators serving pursuant to paragraph 3 of subsection 89-11(b) are to be compensated and apportion the costs of arbitration to the parties involved;
- (8) Conduct studies on problems pertaining to public employee-management relations, and make recommendations with respect thereto to the legislative bodies; request information and data from state and county departments and agencies and employee organizations necessary to carry out its functions and responsibilities; make available to [the public management committee,] employee organizations, as may exist, mediators, members of fact-finding boards, arbitrators, and other concerned parties statistical data relating to wages, benefits, and employment practices in public and private employment to assist them in resolving issues in negotiations;
- (9) Promulgate rules and regulations relative to the exercise of its powers and authority and to govern the proceedings before it in accordance with chapter 91."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 26, 1983.)

Note

1. Section number and heading missing.

ACT 12

S.B. NO. 953

A Bill for an Act Relating to the Board of Agriculture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-16, Hawaii Revised Statutes, is amended to read:

"§26-16 Department of agriculture. (a) The department of agriculture shall be headed by an executive board to be known as the board of agriculture.

The board shall consist of eight members, one who shall be a resident of the county of Hawaii, one who shall be a resident of the county of Maui, one who shall be a resident of the county of Kauai, four at large, and the chairperson of the board of land and natural resources who shall serve as an ex officio voting member. The majority of the members of the board shall be from the agricultural community or the agricultural support sector. The appointment, tenure, and removal of the members and the filling of vacancies on the board shall be as provided in section 26-34. The governor shall appoint a chairman of the board from the members.

(b) The board may delegate to the chairman such duties, powers, and authority, or so much thereof, as may be lawful or proper for the performance of the functions vested in the board.

The chairman of the board shall serve in a full-time capacity. He shall, in that capacity, perform such duties, and exercise such powers and authority, or so much thereof, as may be delegated to him by the board.

(c) The department shall promote the conservation, development, and utilization of agricultural resources in the State; assist the farmers of the State and any others engaged in agriculture by research projects, dissemination of information, crop and livestock reporting service, market news service, and any other means of improving the well-being of those engaged in agriculture and increasing the productivity of the lands, and administer the programs of the State relating to animal husbandry, entomology, farm credit, development of agricultural products, and the establishment and enforcement of the rules on the grading and labeling of agricultural products.

(d) The chairman or his designated representative shall hold at least one publicly announced hearing on each of the islands of Oahu, Hawaii, Maui, Kauai, and Molokai each year for the purpose of hearing complaints and suggestions, if any, from the farmers, ranchers, consumers, and other interested groups and persons with respect to matters within the duties, powers, and authority of the department of agriculture.

(e) The functions and authority heretofore exercised by the board of commissioners of agriculture and forestry (except the management of state parks

ACT 13

and the conservation, development, and utilization of forest resources, including regulatory powers over the forest reserve provided in section 183-41, and of fish and game resources transferred to the department of land and natural resources), by the farm loan board as heretofore constituted, and by the University of Hawaii with respect to the crop and livestock reporting service and market news service, are transferred to the department of agriculture established by this chapter."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 26, 1983.)

ACT 13

H.B. NO. 876

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431-581, Hawaii Revised Statutes, is amended to read as follows:

"§431-581 Credit union groups. The lives of the members of a credit union may be insured under a policy issued to the credit union, which shall be deemed the policyholder, to insure members of the credit union for the benefit of persons other than the credit union or any of its officials, subject to the following requirements:

- (1) The credit union must have been formed for purposes other than obtaining insurance.
- (2) The members eligible for insurance under the policy shall be all of the members of the credit union, except any as to whom evidence of individual insurability is not satisfactory to the insurer, and the amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the credit union. [No policy may be issued which provides term insurance on any member which together with any other term insurance under any group life insurance policy or policies issued to the credit union under this section exceeds \$4,000.]
- (3) The premiums for the policy shall be paid by the policyholder either from the credit union's own funds or from charges collected from the insured members specifically for the insurance, or from both; provided that when the premium is paid by the members, or by the credit union and its members jointly, at least seventy-five per cent of the then eligible members, excluding any as to whom evidence of insurability is not satisfactory to the insurer, must elect to make the required contributions.
- (4) As used herein a "credit union" means a credit union chartered under the provisions of the Federal Credit Union Act or the Hawaii Credit Union Act, chapter 410."

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 26, 1983.)

ACT 14

S.B. NO. 1292

A Bill for an Act Making an Appropriation for Payment of Settlement of the Holo Holo Cases.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500,000 for fiscal year 1982-1983 in payment of a settlement negotiated in the Holo Holo cases.

SECTION 2. The sum appropriated shall be expended by the department of attorney general for purposes of this Act. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1983, shall lapse into the general fund.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 28, 1983.)

ACT 15

S.B. NO. 363

A Bill for an Act Relating to the Functions of the Department of Land and Natural Resources.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-15, Hawaii Revised Statutes, is amended to read:

"§26-15 Department of land and natural resources. The department of land and natural resources shall be headed by an executive board to be known as the board of land and natural resources.

The board shall consist of six members, one from each land district and two at large. The appointment, tenure, and removal of the members and the filling of vacancies on the board shall be as provided in section 26-34. The governor shall appoint the [chairman] chairperson of the board from among the members thereof.

The board may delegate to the [chairman] chairperson such duties, powers, and authority, or so much thereof, as may be lawful or proper for the performance of the functions vested in the board.

The [chairman] chairperson of the board shall serve in a full-time capacity. [He] The chairperson shall, in [such] that capacity, perform [such] those duties, and exercise [such] those powers and authority, or so much thereof, as may be delegated [to him] by the board.

The department shall manage and administer the public lands of the State and the water resources and minerals thereon, including the soil conservation function[; shall manage and administer the forest, fish, and game resources of the State; and manage the forest reserve and state parks, including historic¹ sites.], the

forests and forest reserves, aquatic life and wildlife resources, aquaculture programs, and state parks, including historic sites.

The functions and authority heretofore exercised by the commissioner and board of public lands (including the hydrography division and the bureau of conveyances), the Hawaii water authority, the commission on ground water resources, the Hawaii land development authority, the soil conservation committee, and the commission on historical sites and the function of managing the state parks and the function of promoting the conservation, development and utilization of forests, including the regulatory powers over the forest reserve, [fish and game] aquatic life and wild life resources of the State heretofore exercised by the board of commissioners of agriculture and forestry as heretofore constituted are transferred to the department of land and natural resources established by this chapter."

SECTION 2. Section 171-3, Hawaii Revised Statutes, is amended to read:

"§171-3 Department of land and natural resources. The department of land and natural resources shall be headed by an executive board to be known as the board of land and natural resources. The department shall manage, administer, and exercise control over public lands, the water resources, and minerals and all other interests therein and exercise such powers of disposition thereof as may be authorized by law. The department shall also manage and administer the state parks, historic¹ sites, forests, forest reserves, [fisheries,] aquatic life and aquaculture programs, aquatic life sanctuaries, public fishing areas, wildlife, wildlife sanctuaries, game management areas, public hunting areas, natural area reserves, and other functions assigned² by law."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 30, 1983.)

Notes

1. So in original.
2. Prior to amendment "to it" appeared here.

A Bill for an Act Relating to Motor Vehicle Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 294, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§294- Increase in premiums prohibited; when. No premium on any no-fault policy shall be increased as a result of any accident if the insured is not at fault in the accident. An accident in which the insured was not at fault shall not be used in any way to affect any subsequent increases in insurance premiums."

SECTION 2. This Act does not affect rights and duties which matured, penalties which were incurred, proceedings which were begun, or premiums which were paid prior to the effective date of this Act.

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved April 30, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5

ACT 17

S.B. NO. 480

A Bill for an Act Relating to the Family Court.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 580-51, Hawaii Revised Statutes, is amended to read as follows:

“§580-51 Modification of alimony on remarriage. (a) Upon the remarriage of a [spouse] party in whose favor a final decree or order for support and maintenance has been made, [the family court in the circuit in which the final decree or order was made, shall, upon application of any party in interest, or of anyone on such party’s behalf, and proof of the remarriage of the spouse for whom support was ordered, after such notice to such spouse as the court may direct, rescind and annul such decree or order as to support and maintenance of such spouse.] all rights to receive and all duties to make payments for support and maintenance shall automatically terminate for all payments due after the date of the remarriage, unless the final decree or order, or an agreement of the parties approved by the final decree or order, provides specifically for the payments to continue after such remarriage.

(b) The remarried party shall file a notice of the remarriage with the court which made the order for support and maintenance and serve within thirty days of such marriage, by personal service or registered or certified mail, a copy of the notice on the former paying party. In any proceeding relating to the payment of support and maintenance to a remarried party, the failure of that party to file a notice of remarriage shall be considered by the court in awarding attorney’s fees and costs for the proceeding and in determining reimbursement to the former paying party.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 1983.)

ACT 18

S.B. NO. 498

A Bill for an Act Relating to the Family Court.

ACT 19

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 586-3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) A petition for relief shall be in writing and upon forms provided by the court and shall allege that a recent past act or acts of abuse may have occurred, or that the threats of abuse make it probable that acts of abuse may be imminent; and shall be accompanied by an affidavit made under oath or a statement made under penalty of perjury stating the specific facts and circumstances from which relief is sought.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 1983.)

ACT 19

S.B. NO. 748

A Bill for an Act Relating to Annulment, Divorce, and Separation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter¹ 580-47, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“**§580-47 Support orders; division of property.** (a) Upon granting a divorce, or thereafter if, in addition to the powers granted in (c) and (d) of this section, jurisdiction of such matters is reserved under the decree by agreement of both parties or by order of court after finding that good cause exists, the court may make such further orders as shall appear just and equitable (1) compelling the parties or either of them to provide for the support, maintenance, and education of the children of the parties; (2) compelling either party to provide for the support and maintenance of the other party; (3) finally dividing and distributing the estate of the parties, real, personal, or mixed, whether community, joint, or separate; and (4) allocating, as between the parties, the responsibility for the payment of the debts of the parties whether community, joint, or separate, and the attorney’s fees, costs, and expenses incurred by each party by reason of the divorce. In making such further orders, the court shall take into consideration: the respective merits of the parties, the relative abilities of the parties, the condition in which each party will be left by the divorce, the burdens imposed upon either party for the benefit of the children of the parties, and all other circumstances of the case. Provision may be made for the support, maintenance and education of an adult or minor child and for the support, maintenance and education of an incompetent adult child whether or not the application is made before or after the child has attained the age of majority.

In addition to any other relevant factors considered, the court, in ordering spousal support and maintenance, shall consider the following factors:

- (1) Financial resources of the parties;
- (2) Ability of the party seeking support and maintenance to meet his or her needs independently;

- (3) Duration of the marriage;
- (4) Standard of living established during the marriage;
- (5) Age of the parties;
- (6) Physical and emotional condition of the parties;
- (7) Usual occupation of the parties during the marriage;
- (8) Vocational skills and employability of the party seeking support and maintenance;
- (9) Needs of the parties;
- (10) Custodial and child support responsibilities;
- (11) Ability of the party from whom support and maintenance is sought to meet his or her own needs while meeting the needs of the party seeking support and maintenance;
- (12) Other factors which measure the financial condition in which the parties will be left as the result of the action under which the determination of maintenance is made;
- (13) Probable duration of the need of the party seeking support and maintenance.

The court may order support and maintenance to a party for an indefinite period or until further order of the court; provided that in the event the court determines that support and maintenance shall be ordered for a specific duration wholly or partly based on competent evidence as to the amount of time which will be required for the party seeking support and maintenance to secure adequate training, education, skills, or other qualifications necessary to qualify for appropriate employment, whether intended to qualify the party for a new occupation, update or expand existing qualification, or otherwise enable or enhance the employability of the party, the court shall order support and maintenance for a period sufficient to allow completion of the training, education, skills, or other activity, and shall allow, in addition, sufficient time for the party to secure appropriate employment."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 1983.)

Note

1. Should be "Section".

ACT 20

S.B. NO. 769

A Bill for an Act Relating to Industrial Loan Companies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 408-15, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) Other charges. In addition to the interest, discount, or other charges permitted by this section, an industrial loan company shall also have power to collect in advance or otherwise from the borrower any of the following charges:

- (1) The actual taxes and fees charged by a governmental agency for recording, filing, or entering of record, any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments, of or on any real or personal property which constitutes all or a portion of the security on a contract.
- (2) [Appraisal fees, and abstractors'] Abstractors' fees, or title insurance actually paid to third parties, no portion of which fees inures to the benefit of the company.
- (3) Premiums actually paid for insuring real and personal property pledged as security on a contract, and premiums for insurance on the life or disability or both of the borrower[,]; provided the insurance is obtained from insurance companies authorized to do and doing business in the State under the laws thereof; and provided the borrower, if the property is adequately insured for the amount of the loan, shall not be required to substitute other insurance therefor upon the property or to take out additional insurance thereon.
- (4) Attorney's fees, if provided for in the contract, and costs of court, incurred in the collection of any contract in default.
- (5) A charge not exceeding \$10 upon the transfer of any equity under a chattel mortgage or a conditional sale contract, or upon any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or upon any of such conveyances of any real or personal property which constitutes all or a portion of the security on a contract.
- (6) Loan fees or "points" on all loans primarily secured by an interest in real property where the interest rate is computed in accordance with subsection (j); provided that the total finance charge payable by the borrower in connection with any such loan shall include the amount of any such loan fees or "points" and shall not exceed an annual percentage rate (as defined in the Federal Truth In Lending Act and the regulations of the Federal Reserve Board promulgated thereunder] equal to the maximum rate of interest permissible under subsection (j).
- (7) Any reasonable attorneys' fees incurred for the preparation of any contract, or any promissory note or any obligation evidencing an indebtedness, or any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances of instruments of or on any real or personal property which constitutes all or a portion of security on a contract, or any other documents relating to a contract.
- (8) Actual charges for credit reports and other credit screening expenses incurred for loans of \$5,000 or more[,]; provided that such charges shall not exceed \$15 per applicant and such charges are paid to third

parties and no portion of such charges inures to the benefit of the company.

- (9) Appraisal fees; provided that the appraisals shall be made by a competent, qualified person connected with the company, designated and approved by the board of directors, or by a competent, qualified, independent appraiser. The bank examiner may require that an appraisal by an independent appraiser be obtained at the expense of the company whenever it deems it necessary."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 30, 1983.)

ACT 21

S.B. NO. 41

A Bill for an Act Relating to Real Estate.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 **[[NEW]] Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1983:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- (4) Chapter 466 (Board of Public Accountancy)
- [(5) Chapter 467 (Real Estate Commission)]
- (6) (5) Chapter 448H (Elevator Mechanics Licensing Board)
- (b) The following chapters are hereby repealed effective December 31,

1984:

- (1) Chapter 436D (Board of Acupuncture)
- (2) Chapter 442 (Board of Chiropractic Examiners)
- (3) Chapter 448 (Board of Dental Examiners)
- (4) Chapter 453 (Board of Medical Examiners)
- (5) Chapter 457 (Board of Nursing)
- (6) Chapter 447 [(Board)] (Dental Hygienists)
- (c) The following chapters are hereby repealed effective December 31,

1985:

- (1) Chapter 460 (Board of Osteopathic Examiners)
- (2) Chapter 461 (Board of Pharmacy)
- (3) Chapter 455 (Board of Examiners in Naturopathy)
- (4) Chapter 463E (Podiatry)
- (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)

ACT 22

- (d) The following chapters are hereby repealed effective December 31, 1986:
- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
 - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
 - (3) Chapter 440 (Boxing Commission)
 - (4) Chapter 460J (Pest Control Board)
 - (5) Chapter 438 (Board of Barbers)
 - (6) Chapter 439 (Board of Cosmetology)
- (e) The following chapters are hereby repealed effective December 31, 1987:
- (1) Chapter 458 (Board of Dispensing Opticians)
 - (2) Chapter 459 (Board of Examiners in Optometry)
 - (3) Chapter 452 (Board of Massage)
 - (4) Chapter 471 (Board of Veterinary Examiners)
 - (5) Chapter 441 (Cemeteries and Mortuaries)
 - (6) Chapter 463 (Board of Detectives and Guards)
- (f) The following chapters are hereby repealed effective December 31, 1988:
- (1) Chapter 465 (Board of Certification for Practicing Psychologists)
 - (2) Chapter 468E (Board of Speech Pathology and Audiology)
 - (3) Chapter 359L (Factory Built Housing Advisory Board)
 - (4) Chapter 468B (Solar Energy Device Dealers)
 - (5) Chapter 468K (Travel Agencies)
 - (6) Chapter 373 (Commercial Employment Agencies)[.]
 - (g) The following chapter is hereby repealed effective December 31, 1989:
 - (1) Chapter 467 (Real Estate Commission)."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 2, 1983.)

ACT 22

S.B. NO. 178

A Bill for an Act Relating to Medicine and Surgery.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 453-8, Hawaii Revised Statutes, is amended to read:

"§453-8 Revocation, limitation or suspension of licenses. (a) Any license to practice medicine and surgery may be revoked, limited, or suspended by the board of medical examiners at any time in a proceeding before the board for any one or more of the following acts or conditions on the part of the holder of such license:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing any person to solicit patients for [him;] one's self;

- (3) Engaging in false, fraudulent, or deceptive advertising, including, but not limited to:
 - (A) Making excessive claims of expertise in one or more medical specialty fields;
 - (B) Assuring a permanent cure for an incurable disease; or
 - (C) Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;
- (4) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;
- (5) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- (6) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
- (7) Professional misconduct or gross carelessness or manifest incapacity in the practice of medicine or surgery;
- (8) Negligence or incompetence, including, but not limited to, the consistent use of medical service which is inappropriate or unnecessary;
- (9) Conduct or practice contrary to recognized standards of ethics of the medical profession[;] as adopted by the Hawaii Medical Association or the American Medical Association;
- (10) Violation of the conditions or limitations upon which a limited or temporary license is issued;
- (11) Revocation, suspension, or other disciplinary action by another state of a license or certificate for reasons as provided in this section; [or]
- (12) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a physician, notwithstanding any statutory provision to the contrary[.]; or
- (13) Violation of chapter 329, uniform controlled substance act, or any regulation promulgated thereunder.

(b) If any license is revoked, limited, or suspended by the board for any act or condition listed in this section, the board shall notify the holder of the license in writing of the revocation, limitation, or suspension. Any license to practice medicine and surgery which has been revoked under this section may be restored by the board."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall not affect rights matured, penalties incurred, or prosecutions begun prior to the effective date of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 2, 1983.)

A Bill for an Act Relating to the Board of Pharmacy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 461-3, Hawaii Revised Statutes, is amended to read as follows:

"§461-3 Officers. The board of pharmacy shall select a chairman, a secretary, and a treasurer.

The chairman of the board shall preside at all meetings and in his absence the members present shall select a chairman pro tem.

The secretary shall, subject to the direction of the board, make and keep all records and record books required to be kept by the board and he shall furnish the department of health with copies of such of those records as it requires. The records and record books of the board as made and kept by the secretary shall be prima facie evidence of the matter therein recorded in any court of law.

All fees collected shall be deposited by the director of [regulatory agencies] commerce and consumer affairs with the director of finance to the credit of the general fund."

SECTION 2. Section 461-4, Hawaii Revised Statutes, is amended to read as follows:

"§461-4 Meetings; powers and duties of board. (a) Meetings. The board of pharmacy shall hold meetings in April and September of each year, and at such other times as it deems necessary. A majority of the board shall constitute a quorum, and the concurrence of a majority of the members present shall be necessary to make any action of the board valid.

[(b) Reports. The board shall make a written report annually to the governor through the director of regulatory agencies of its proceedings and of its receipts and disbursements, and shall include therein a list of the names of all registrants duly licensed to practice under this chapter.

(c)] (b) Power to suspend or revoke license. The board may suspend or revoke any license of any pharmacist to practice pharmacy, issued under this chapter, for:

- (1) Professional misconduct,
- (2) Gross carelessness,
- (3) Manifest incapacity of a licensee, or
- (4) Any violation by the licensee of this chapter or of any rule [and regulation] prescribed pursuant thereto.

No such license shall be suspended or revoked except upon due notice to the licensee of the charge against him and only after an opportunity for a full and fair hearing.

[(d)] (c) Power to suspend or revoke permits. The board may suspend or revoke any permit to operate a pharmacy or to sell or distribute drugs, issued under this chapter, in any case, where the permittee has violated any of the provisions of this chapter or of any rule [and regulation] prescribed pursuant thereto. No permit

shall be suspended or revoked except upon due notice to the permittee of the charge against him and only after an opportunity for a full and fair hearing.

[(e)] (d) Power to regulate. The board may make such rules [and regulations], not inconsistent with law, as may be necessary to carry out the purpose of this chapter, which purpose is hereby declared to be the protection of the public health and safety. The rules [and regulations] shall be prescribed in the manner provided in chapter 91 and with the approval of the governor and the director of [regulatory agencies] commerce and consumer affairs. They shall have the force and effect of law.

[(f)] (e) Power to inspect. The board or any duly authorized representative thereof may inspect drugs packed, packaged, compounded, sold, offered for sale, exposed for sale, or kept for sale in the State and for this purpose it may, during reasonable hours, enter and inspect any pharmacy or premises in the State where drugs are packed, packaged, compounded, sold, offered for sale, exposed for sale, or kept for sale.

[(g)] (f) Power to investigate. The board or any member thereof, or any person designated by the board for the purpose, may investigate any violation or suspected violation of this chapter or of any rules [and regulations] duly prescribed by the board.

[(h)] (g) Oaths. Each member of the board may administer oaths in connection with the duties of the board.

[(i)] (h) Department of health, powers. Nothing in this chapter shall modify or limit any powers of the department of health of the State."

SECTION 3. Section 461-9, Hawaii Revised Statutes, is amended to read as follows:

"§461-9 Pharmacist in charge. A registered pharmacist shall be in personal and immediate charge of every pharmacy. Temporary absences of the registered pharmacist shall be unlawful except for such periods of time and under such circumstances as authorized under the rules [and regulations] of the board of pharmacy. During any absence of the registered pharmacist, prescriptions may not be filled, compounded, or received by telephone and no drugs shall be sold; provided, that this shall not preclude the sale at such times of such things as might be sold were the pharmacy a store not subject to this chapter. No person other than a registered pharmacist or an assistant under his immediate supervision shall fill or compound prescriptions."

SECTION 4. Section 461-11, Hawaii Revised Statutes, is amended to read as follows:

"§461-11 Duties of registered pharmacist. Every registered pharmacist in charge of a pharmacy shall comply with all laws[,] and rules [and regulations]. He shall be responsible for the management of the pharmacy; and every activity thereof which is subject to this chapter shall be under his complete control. All registered pharmacists shall notify the board of pharmacy of changes of business address within ten days."

SECTION 5. Section 461-14, Hawaii Revised Statutes, is amended to read as follows:

"§461-14 Permits for operation of pharmacy. It shall be unlawful for any person to operate, maintain, open, change location, or establish any pharmacy within the State without first having obtained a permit so to do from the board of pharmacy. Application for permits shall be made on a form to be prescribed by the board. Separate application shall be made and separate permits issued for each separate place at which is carried on any of the operations for which a permit is required.

On evidence satisfactory to the board:

- (1) That the pharmacy for which the permit is sought is or will be, in full compliance with all state drug, narcotic, and poison laws and this chapter and [regulations] rules of the board;
- (2) That the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; and
- (3) That the pharmacy will be under the personal and immediate supervision of a registered pharmacist,

a permit shall be issued. No application for a permit shall be refused except pursuant to this section and only after notice to the applicant and a full and fair hearing."

SECTION 6. Section 461-17, Hawaii Revised Statutes, is amended to read as follows:

"§461-17 Penalties. Any person violating this chapter or the rules [and regulations] duly prescribed by the board of pharmacy shall be fined not more than \$500, or imprisoned not more than six months, or both."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 2, 1983.)

A Bill for an Act Relating to the Insurance Commissioner.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431-35, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The commissioner may:

- (1) Make, subject to chapter 91, reasonable rules and regulations for effectuating any provision of this chapter, except those relating to his appointment, qualifications, or compensation.
- (2) Conduct examinations and investigations to determine whether any person has violated any provision of this chapter or to secure information useful in lawful administration of any such provision.

- (3) Require, upon reasonable notice, that insurers report such claims information as the commissioner may deem necessary to protect the public interest.

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 2, 1983.)

ACT 25

H.B. NO. 257

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 171-13, Hawaii Revised Statutes, is amended to read:

"§171-13 Disposition of public lands. Except as otherwise provided by law and subject to other provisions of this chapter, the board may:

- (1) Dispose of public lands¹ in fee simple, by lease, lease with option to purchase, license, or permit; and
- (2) Grant easement by direct negotiation or otherwise for particular purposes in perpetuity on such terms² as may be set by the board, subject to reverter to the State upon termination or abandonment of the specific purpose for which it was granted, provided the sale price of such easement shall be determined pursuant to section 171-17(b).

No person shall be eligible to purchase or lease public lands, or be granted a license, permit, or easement covering public lands, who has had during the five years preceding the date of disposition a previous sale, lease, license, permit, or easement covering public lands cancelled for failure to satisfy the terms and conditions thereof."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 2, 1983.)

Notes

1. So in original.
2. Prior to amendment "and conditions" appeared here.

ACT 26

S.B. NO. 448

A Bill for an Act Relating to Firearms.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 134-3, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) Each chief of police may issue permits, within the chief's jurisdiction, to acquire firearms to citizens of the United States of the age of eighteen years or

more, and to duly accredited official representatives of foreign nations. Each chief of police may also issue permits to aliens of the age of eighteen years or more for use of rifles and shotguns for a period not exceeding sixty days, after the alien has first procured a hunting license under sections 191-1 to 191-6[.], or may issue permits to acquire firearms to aliens who are duly commissioned law enforcement officers in the State. However, any law enforcement officer who is the owner of a firearm and who is an alien shall transfer ownership of the firearm within forty-eight hours after termination of employment from a law enforcement agency."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1983.)

ACT 27

S.B. NO. 481

A Bill for an Act Relating to the Family Court.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-54, Hawaii Revised Statutes, is amended to read as follows:

"§571-54 Appeal. An interested party aggrieved by any order or decree of the court may appeal to the supreme court for review of questions of law and fact upon the same terms and conditions as in other cases in the circuit court and review shall be governed by chapter 602, except as hereinafter provided. Where the decree or order affects the custody of a child or minor the appeal shall be heard at the earliest practicable time. In cases under section 571-11 the record on appeal shall be given a fictitious title, to safeguard against publication of the names of the children or minors involved.

The stay of enforcement of an order or decree, or the pendency of an appeal, shall not suspend the order or decree of the court regarding a child or minor or discharge the child or minor from the custody of the court or of the person, institution, or agency to whose care he has been committed, unless otherwise ordered by¹ family court, or by the supreme or intermediate appellate court after an appeal is taken. Pending final disposition of the case the family court, or the supreme or the intermediate appellate court after the² appeal is taken, may make such order for temporary custody as is appropriate in the circumstances. If the supreme or the intermediate appellate court does not dismiss the proceedings and discharge the child or minor, it shall affirm or modify the order of the family court and remand the child or minor to the jurisdiction of the court for disposition not inconsistent with the supreme or¹ intermediate appellate court's finding on the appeal.

An order or decree entered in a proceeding based upon section 571-11(1), (2), or (6) shall be subject to appeal to the supreme court only as follows:

Within [ten] twenty days from the entry of any such order or decree, any party directly affected thereby[, including a parent or legal custodian of any child or

minor involved,] may [petition the judge] file a motion for a [rehearing and] reconsideration of the facts involved. The [petition] motion and any supporting affidavit shall set forth the grounds on which a [rehearing] reconsideration is requested and shall be sworn to by the [petitioner.] movant or the movant's representative. [A copy thereof shall be served upon the attorney general, who shall represent the interests of the State at the rehearing and in connection with any subsequent appeal. As soon thereafter as may be practicable, the] The judge shall [proceed with the rehearing of the case,] hold a hearing on the motion, affording to all parties concerned the full right of representation by counsel and presentation of relevant evidence. The findings of the judge upon the [rehearing] hearing of the motion and his determination and disposition of the case thereafter, and any decision, judgment, order, or decree affecting the child and entered as a result of the [rehearing] hearing on the motion shall be set forth in writing and signed by the judge. Any party deeming himself aggrieved by any such findings, judgment, order, or decree[, entered following a rehearing as in this section provided,] shall have the right to appeal therefrom to the supreme court upon the same terms and conditions as in other cases in the circuit court and review shall be governed by chapter 602; provided that no such [petition for rehearing] motion for reconsideration shall operate as a stay of any such findings, judgment, order, or decree unless the judge of the family court so orders; provided further that no informality or technical irregularity in the proceedings prior to the [rehearing hereinabove provided for] hearing on the motion for reconsideration shall constitute grounds for the reversal of any such findings, judgment, order, or decree by the appellate court."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1983.)

Notes

1. Prior to amendment "the" appeared here.
2. Prior to amendment "an" instead of "the".

ACT 28

S.B. NO. 484

A Bill for an Act Relating to the Uniform Probate Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 560:5-405, Hawaii Revised Statutes, is amended to read as follows:

"§560:5-405 Notice in protective proceedings. In a proceeding for the appointment or removal of a guardian of the property or other protective order, notice of the time and place of hearing [must] shall be given to the persons, including a guardian of the person, and in the manner specified in section 560:5-309, and to any person who has filed a request for notice under section 560:5-406[.]; provided that notice to grandparents of a minor shall be required only when both

parents are deceased, or to the parents of a deceased parent, when one parent is deceased."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1983.)

ACT 29

S.B. NO. 558

A Bill for an Act Relating to the Uniform Securities Act (Modified).

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 485-6, Hawaii Revised Statutes, is amended to read as follows:

"§485-6 Exempt transactions. The following transactions are exempted from sections 485-8 and 485-25 (a) (7):

- (1) Any isolated nonissuer transaction, whether effected through a dealer or not;
- (2) Any nonissuer distribution of an outstanding security if the manual of Hawaiian securities or any other recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years (or during the existence of the issuer and any predecessors if less than three years) in the payment of principal, interest, or dividends on the security;
- (3) Any nonissuer transaction effected by or through a registered dealer pursuant to an unsolicited order or offer to buy;
- (4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;
- (5) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;
- (6) Any transaction by a personal representative, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;
- (7) Any transaction executed by a bona fide pledgee without any purpose of evading this chapter;
- (8) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment

Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

- (9) Any transaction pursuant to an offer directed by the offerer to not more than twenty-five persons (other than those designated in paragraph (8)) in the State during any period of twelve consecutive months, whether or not the offerer or any of the offerees is then present in the State, if all buyers represent that they are purchasing for investment (rather than with a present view to resale) and the seller reasonably accepts their representations as true, and no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer;
- (10) Any offer or sale of a preorganization certificate or subscription for any security to be issued by any person if no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber, and the number of subscribers does not exceed twenty-five;
- (11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within ninety days of their issuance, if no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in the State;
- (12) Any offer (but not a sale) of a security for which registration statements have been filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either this chapter or such Act;
- (13) Any offer or sale by or through a real estate broker or real estate salesman licensed under the laws of the State as such, of a security issued on or after July 1, 1961 by a corporation organized under the laws of the State, the holder of which is entitled solely by reason of his ownership thereof, to occupy for dwelling purposes, or to a lease which entitles the holder to occupy for dwelling purposes a house, or an apartment in a building, owned or leased by such corporation, subject, however, to section 485-7;
- (14) Any offer or sale by or through a real estate broker or real estate salesman licensed as such under the laws of the State of an apartment in a condominium project, and a rental management contract relating to such apartment, including an interest in a general or limited partnership formed for the purpose of managing the rental of apartments if the rental management contract or the interest in the general or limited partnership is offered at the same time as the apartment is offered. The words "apartment", "condominium", and "project" are defined as they are defined in section 514A-3;

- (15) Any [offer or sale not involving a public offering within the meaning of Rule 146 (Code of Federal Regulations section 230.146) or any successor rule, as amended from time to time, of the Securities and Exchange Commission.] transactions not involving a public offering, and in addition, any categories of transactions effected in accordance with such rules as the commissioner may issue under chapter 91 pursuant to this paragraph with a view to uniformity with federal law."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1983.)

ACT 30

S.B. NO. 630

A Bill for an Act Relating to Parole Procedure.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 706-670, Hawaii Revised Statutes, is amended as follows:

"§706-670 Parole procedure; release on parole; terms of parole, recommitment, and reparole [; final unconditional release]. (1) Parole hearing. A person sentenced to an indeterminate term of imprisonment shall receive an initial parole hearing at least one month before the expiration of the minimum term of imprisonment determined by the Hawaii paroling authority pursuant to section 706-669. If parole is not granted at that time, additional hearings shall be held at twelve-month intervals or less until parole is granted or the maximum period of imprisonment expires.

(2) Prisoner's plan and participation. Each prisoner shall be given reasonable notice of his parole hearing and shall prepare a parole plan, setting forth the manner of life he intends to lead if released on parole, including specific information as to where and with whom he will reside and what occupation or employment he will follow. The institutional parole staff shall render reasonable aid to the prisoner in the preparation of his plan and in securing information for submission to the authority. In addition, he shall:

- (a) Be permitted to consult with any persons whose assistance he reasonably desires, including his own legal counsel, in preparing for a hearing before the authority;
- (b) Be permitted to be represented and assisted by counsel at the hearing;
- (c) Have counsel appointed to represent and assist him if he so requests and cannot afford to retain counsel; and
- (d) Be informed of his rights under (a), (b), and (c).

(3) Authority's decision [.; initial minimum term of parole. The authority shall render its decision regarding a prisoner's release on parole within a reasonable time after the parole hearing. If the authority denies parole after the hearing, it shall state its reasons in writing. A verbatim stenographic or mechanical record of the

parole hearing shall be made and preserved in transcribed or untranscribed form. The authority may in its discretion order a reconsideration or rehearing of the case at any time. If parole is granted by the authority, the authority shall set the initial minimum length of the parole term.

(4) Release upon expiration of maximum term. If the authority fixes no earlier release date, a prisoner's release shall become mandatory at the expiration of his maximum term of imprisonment.

(5) Sentence of imprisonment includes separate parole term[; length of parole term]. A sentence to an indeterminate term of imprisonment under this chapter includes as a separate portion of the sentence a term of parole or of recommitment for violation of the conditions of parole [which governs the duration of parole or recommitment after the prisoner's first conditional release on parole. The maximum of such term shall be ten years. The minimum length of the term of parole or recommitment shall be determined by the authority].

(6) Revocation hearing. When a parolee has been recommitted, the authority shall hold a hearing within sixty days after his return to determine whether his parole should be revoked. The parolee shall have reasonable notice of the grounds alleged for revocation of his parole. The institutional parole staff shall render reasonable aid to the parolee in preparation for the hearing. In addition, the parolee shall have, with respect to the revocation hearing, those rights set forth in subsection (2)(a), (2)(b), (2)(c), and (2)(d). A record of the hearing shall be made and preserved as provided in subsection (3).

(7) Length of recommitment and reparole after revocation of parole. If a parolee's parole is revoked, the term of further imprisonment upon such recommitment and of any subsequent reparole or recommitment under the same sentence shall be fixed by the authority but shall not exceed in aggregate length the unserved balance of the maximum [parole term provided by subsection (5).] term of imprisonment.

[(8) Final unconditional release. When his maximum parole term has expired or he has been sooner discharged from parole, a prisoner shall be deemed to have served his sentence and shall be released unconditionally.]”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 5, 1983.)

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS
ACT**

§ -1 **Short title.** This chapter may be cited as the Uniform Enforcement of Foreign Judgments Act.

§ -2 **Definition.** In this chapter “foreign judgment” means any judgment, decree, or order of a court of the United States or of any other court which is entitled to full faith and credit in this State.

§ -3 **Filing and status of foreign judgments.** A copy of any exemplified foreign judgment may be filed in the office of the clerk of the appropriate court of this State. The clerk shall treat the foreign judgment in the same manner as a judgment of a court of this State. A judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of a court of this State and may be enforced or satisfied in like manner.

§ -4 **Notice of filing.** (a) At the time of the filing of the foreign judgment, the judgment creditor or the judgment creditor’s lawyer shall make and file with the clerk of court an affidavit setting forth the name and last known post office address of the judgment debtor and the judgment creditor.

(b) Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the judgment creditor and the judgment creditor’s lawyer, if any, in this State. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. The failure by the clerk to mail notice of filing shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

§ -5 **Stay.** (a) If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

(b) If the judgment debtor shows the court any ground upon which enforcement of a judgment of any court of this State would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this State.

§ -6 **Fees.** Any person filing a foreign judgment shall pay \$30 to the clerk of the court. Fees for docketing, transcription, or other enforcement proceedings shall be as provided by law for judgments of the court of this State.

§ -7 **Optional procedures.** The right of a judgment creditor to bring an action to enforce a judgment instead of proceeding under this chapter remains unimpaired.

§ -8 **Uniformity of interpretation.** This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 5, 1983.)

ACT 32

S.B. NO. 890

A Bill for an Act Relating to Credit Card Offenses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 851-4, Hawaii Revised Statutes, is amended to read as follows:

"§851-4 **Fraudulent use of credit cards, etc., penalties.** (a) A person, who, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, (1) uses or attempts or conspires to use, for the purpose of obtaining money, goods, services, or anything else of value a credit card obtained or retained in violation of section 851-3 or a credit card which he knows is forged, expired, or revoked; [or] (2) obtains or attempts or conspires to obtain money, goods, services, or anything else of value by representing without the consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued[,]; or (3) uses or attempts or conspires to use a credit card number without the consent of the cardholder for the purpose of obtaining money, goods, services, or anything else of value, violates this section and is subject to the penalties set forth in subsection 851-10(a), if the value of all money, goods, services, and other things of value obtained or attempted to be obtained in violation of this section does not exceed \$100 in any six-month period; and is subject to the penalties set forth in subsection 851-10(b), if such value exceeds \$100 in any six-month period.

(b) Knowledge of revocation of a credit card shall be presumed to have been received by a cardholder four days after it has been mailed to him at the address set forth on the credit card or at his last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to have been received ten days after mailing by registered or certified mail."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1983.)

A Bill for an Act Relating to Tort Actions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 663-1.5, Hawaii Revised Statutes, is amended to read as follows:

"§663-1.5 Exception to liability. (a) Any person who in good faith renders emergency care, without remuneration or expectation of remuneration, at the scene of an accident or emergency to a victim of the accident or emergency shall not be liable for any civil damages resulting from his acts or omissions, except for such damages as may result from his gross negligence or wanton acts or omissions.

(b) No act or omission of any rescue team or physician working in direct communications with a rescue team operating in conjunction with a hospital or an authorized emergency vehicle of the hospital or the State or county, while attempting to resuscitate any person who is in immediate danger of loss of life, shall impose any liability upon the rescue team, the physicians, or the owners or operators of such hospital or authorized emergency vehicle, if good faith is exercised.

For the purposes of this section, "rescue team" means a special group of physicians, basic life support personnel, advanced life support personnel, surgeons, nurses, volunteers, or employees of the owners or operators of the hospital or authorized emergency vehicle who have been trained in basic or advanced life support and have been designated by the owners or operators of the hospital or authorized emergency vehicle to attempt to provide such support and resuscitate persons who are in immediate danger of loss of life in cases of emergency.

This section shall not relieve the owners or operators of the hospital or authorized emergency vehicle of any other duty imposed upon them by law for the designation and training of members of a rescue team or for any provisions regarding maintenance of equipment to be used by the rescue team or any damages resulting from gross negligence or wanton acts or omissions.

(c) Any physician licensed to practice under the laws of this State or any other state who in good faith renders emergency medical care in a hospital to a person, who is in immediate danger of loss of life, without remuneration or expectation of remuneration, shall not be liable for any civil damages, if the physician exercises that standard of care expected of similar physicians under similar circumstances.

(d) Any person or other entity who as a public service publishes written general first aid information dealing with emergency first aid treatment, without remuneration or expectation of remuneration for providing this public service, shall not be liable for any civil damages resulting from the written publication of such first aid information except as may result from its gross negligence or wanton acts or omissions.

For the purpose of this section, "good faith" is used to include, but is not limited to, a reasonable opinion that the immediacy of the situation is such that the rendering of care should not be postponed."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1983.)

ACT 34

H.B. NO. 901

A Bill for an Act Relating to Elections.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 11-23, Hawaii Revised Statutes, is amended to read as follows:

"§11-23 Changing register; striking names of disqualified voters. (a) Whenever the clerk receives from the department of health or any informing agency, information of the death, loss of voting rights of a person sentenced for a felony as provided in section 831-2, adjudication as an incapacitated person under the provisions of chapter 560, a mentally retarded person under the provisions of chapter 333, [or a mentally ill person under the provisions of chapter 334,] loss of citizenship, or any other disqualification to vote, of any person registered to vote in [his] that county, or who [he] the clerk has reason to believe may be registered to vote therein, [he] the clerk shall thereupon make such investigation as [he] may [deem] be necessary to prove or disprove the information, giving the person concerned, if available, notice and an opportunity to be heard. If after the investigation [he] the clerk finds that the person is dead, or incapacitated to the extent that [he] the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning voting, or has lost [his] voting rights pursuant to section 831-2, or has lost [his] citizenship, or is disqualified for any other reason to vote, [he] the clerk shall remove the name of the person from the register.

(b) The clerk shall make and keep an index of all information furnished to [him] the clerk under any requirements of law concerning any of the matters in this section. Whenever any person applies to register as a voter, the clerk shall, before registering the person, consult the index for the purpose of ascertaining whether or not the person is in any manner disqualified to vote. Any person whose name is removed from the register of voters under this section may appeal in the manner provided by sections 11-26 and 11-51, and such proceedings shall be had upon the appeal as in other appeals under these sections."

SECTION 2. Section 11-41, Hawaii Revised Statutes, is amended to read as follows:

"§11-41 Boards of registration, appointment, tenure. (a) There shall be four boards of registration: one for the island of Hawaii; one for the islands of Maui, Molokai, Lanai, and Kahoolawe; one for the island of Oahu; and one for the islands of Kauai and Niihau. The boards, which shall be in the office of the lieutenant governor for administrative purposes, shall consist of three members each [,] and shall be appointed by the governor by and with the advice and consent of the senate; [and] their terms of office shall be four years.

(b) In no case shall any board consist entirely of members of one political party.

(c) The several boards of registration shall sit in the county seats of their respective counties on election day. The boards shall also sit at such other times as the clerk determines within the various representative districts in their respective counties to hear appeals, provided there are any, from the voters registered within such districts. The boards shall continue their sittings until all appeals have been heard.

(d) Reasonable notices of the sitting of the boards shall be given by publication in newspapers of general circulation in their respective districts or counties."

SECTION 3. Section 11-61, Hawaii Revised Statutes, is amended to read as follows:

"§11-61 "Political party" defined. (a) The term "political party" shall mean any party which was on the ballot at the last general election which has not been disqualified by this section and any political group which shall hereafter undertake to form a political party in the manner provided for in sections 11-62 to 11-64. A political party shall be an association of voters united for the purpose of promoting a common political end or carrying out a particular line of political policy and which maintains a general organization throughout the State, including a regularly constituted central committee and county committees in each county other than Kalawao.

(b) Any party which does not meet the following requirements shall be subject to disqualification:

- (1) A party must have had candidates running for election at the last general election for any of the offices listed in paragraphs (2) to (5) whose terms had expired. This does not include those offices which were vacant because the incumbent had died or resigned before the end of [his] the incumbent's term;
- (2) The party received at least ten per cent of all votes cast for any of the offices voted upon by all the voters in the State; [or,]
- (3) The party received at least ten per cent of all the votes cast in at least fifty per cent of the congressional districts; [or,]
- (4) The party received at least ten per cent of all the votes cast in at least [fifty per cent of the senatorial districts] the six senatorial districts with the lowest votes cast for the office of state senator; or[,]
- (5) The party received at least ten per cent of all the votes cast in at least fifty per cent of the representative districts for the office of state representative."

SECTION 4. Section 11-62, Hawaii Revised Statutes, is amended to read as follows:

"§11-62 Formation of new parties; petition. (a) Any group of persons hereafter desiring to form a new political party in the State shall file with the chief election officer a petition as hereinafter provided. The petition for the formation of a new political party shall:

- (1) Be filed not later than 4:30 p.m. on the one hundred fiftieth day prior to the next primary;
- (2) Declare as concisely as may be the intention of signers thereof to form such new statewide political party in the State[;] and state the name of the new party;
- (3) Contain the signatures of currently registered voters comprising not less than one per cent of the total registered voters of the State [at the time of filing;] as of the last preceding general election;
- (4) [Contain] Be accompanied by the names and addresses of the officers of the central committee and of the respective county committee, where they exist, of the new political party[;] and by the party rules; and
- (5) Be upon the form prescribed and provided by the chief election officer.

(b) The petition shall be subject to hearing under chapter 91, if any objections are raised by the chief election officer or any political party. All objections shall be made not later than 4:30 p.m. on the tenth day after the petition has been filed. If no objections are raised by 4:30 p.m. on the tenth day, the petition shall be [deemed] approved. If an objection is raised, a decision shall be rendered not later than 4:30 p.m. on the thirtieth day after filing of the petition or not later than 4:30 p.m. on the one hundredth day prior to the primary, whichever shall first occur.

(c) The chief election officer may check the names of any persons on the petition to see that they are registered voters and [he] may check the validity of their signatures. The petition shall be public information upon filing."

SECTION 5. Section 11-63, Hawaii Revised Statutes, is amended to read as follows:

"§11-63 Party rules, amendments to be filed. All existing [and new] parties must file their rules with the chief election officer not later than 4:30 p.m. on the one hundred fiftieth day prior to the next primary. All amendments shall be filed with the chief election officer not later than 4:30 p.m. on the thirtieth day after their adoption. The rules and amendments shall be duly certified to by an authorized officer of the party and upon filing, the rules and amendments thereto shall be a public record."

SECTION 6. Section 11-64, Hawaii Revised Statutes, is amended to read as follows:

"§11-64 Names of party officers to be filed. All parties shall submit to the chief election officer and the respective county clerks not later than 4:30 p.m. on the [one hundred twentieth] ninetieth day prior to the next primary, a list of names and addresses of officers of the central committee and of the respective county committees."

SECTION 7. Section 11-77, Hawaii Revised Statutes, is amended to read as follows:

"§11-77 Appointment of watchers; service. (a) Each qualified political party shall be entitled to appoint no more than one watcher in each precinct and absentee polling place in which the candidates of such party are on the ballot. Each

party shall submit its list of watchers not later than 4:30 p.m. on the tenth day prior to any election[.] to the chief election officer or to the clerk in county elections. All watchers shall serve without expense to the State or county. All watchers so appointed shall be registered voters. No person shall serve as a watcher who could not qualify to serve as a precinct official under section 11-72(3).

(b) Each watcher shall be provided with identification from the chief election officer, or by the clerk in the case of county elections, stating [his] the watcher's name and the name of the party [he] the watcher represents. On election day the watcher shall present [his] identification to the [chairman] chairperson of precinct officials of the precinct or precincts where [he] the watcher is to serve.

(c) All watchers for precincts shall be permitted to observe the conduct of the election in the precinct. The watchers may remain in the precinct as long as the precinct is in operation subject to section 19-6.

(d) The watcher shall call the attention of the [chairman] chairperson to any violations of the election laws that [he] the watcher observes. After [his] the chairperson's attention is called to the violation the [chairman] chairperson shall make an attempt to correct such violation. If the [chairman] chairperson fails to correct the violation, the watcher may appeal to the clerk of the county.

(e) The watchers shall be permitted to observe the operations of the absentee polling place. Any violation of the election laws shall be reported to the clerk."

SECTION 8. Section 11-92, Hawaii Revised Statutes, is hereby repealed.

SECTION 9. The Hawaii Revised Statutes is amended by adding a new section to read as follows:

"§11-92.1 Election proclamation: establishment of a new precinct. (a) The chief election officer shall issue a proclamation whenever a new precinct is established in any representative district. The chief election officer shall provide a suitable polling place for each precinct. Schools, recreational halls, park facilities, and other publicly owned or controlled buildings shall, whenever possible and convenient, be used as polling places. The chief election officer shall make arrangements for the rental or erection of suitable shelter for this purpose whenever public buildings are not available and shall cause such polling places to be equipped with the necessary facilities for lighting, ventilation, and equipment needed for elections on any island.

(b) No change shall be made in the boundaries of any precinct later than 4:30 p.m. on the ninetieth day prior to an election."¹

SECTION 10. The Hawaii Revised Statutes is amended by adding a new section to read as follows:

"§11-92.2 Multiple polling place sites. (a) The chief election officer may establish multiple polling place sites for contiguous precincts, notwithstanding district boundaries, when it is convenient and readily accessible for the voters of the precincts involved.

(b) No multiple polling place site shall be established later than 4:30 p.m. on the ninetieth day prior to an election."¹

SECTION 11. The Hawaii Revised Statutes is amended by adding a new section to read as follows:

"§11-92.3 Consolidated precincts: natural disasters; special elections.

(a) In the event of a flood, tsunami, earthquake, volcanic eruption, high wind, or other natural disaster occurring prior to an election which makes a precinct inaccessible, the chief election officer or county clerk in the case of county elections may consolidate precincts within a representative district. The chief election officer or county clerk in the case of county elections shall give notice of the consolidation in the affected county prior to the opening of the precinct polling place by whatever possible news or broadcast media. Precinct officials and workers affected by the consolidation shall not forfeit their pay.

(b) In the event the chief election officer or the county clerk in a county election determines that the number of candidates or issues on the ballot in a special, special primary, or special general election does not require the full number of established precincts, such precincts may be consolidated for the purposes of the special, special primary, or special general election into a small number of special, special primary, or special general election precincts. A special, special primary, or special general election precinct shall be considered the same as an established precinct for all purposes, including precinct official requirements provided in section 11-71. Not later than 4:30 p.m. on the tenth day prior to the special, special primary, or special general election the chief election officer or the county clerk shall give public notice in a newspaper of general circulation in the area in which the special, special primary, or special general election is to be held of the special, special primary, or special general election precincts and their polling places. Notices of such consolidation shall also be posted on election day at the established precinct polling places giving the location of the special, special primary, or special general election precinct polling place."

SECTION 12. Section 11-97, Hawaii Revised Statutes, is amended to read as follows:

"§11-97 Records open to inspection. The register of voters and all records appertaining to the registry of voters, or to any election, in the possession of the board of registration, the precinct officials, the chief election officer, or the clerk shall, at all reasonable times, be open to the inspection of any voter[,] with the following exception: the voted ballots and other sealed election materials shall not be open to the inspection of any voter until after the end of the contest period unless opened upon order of the court."

SECTION 13. Section 11-112, Hawaii Revised Statutes, is amended to read as follows:

"§11-112 Contents of ballot. (a) [A] The ballot shall contain the names of the candidates, their party affiliation or nonpartisanship[,] in partisan election contests, the offices for which they are running, and the district in which the election is being held. In multimember races the ballot shall state that the voter shall not vote for more than the number of seats available or the number of candidates listed where such number is less than the seats available.

(b) The ballot may include questions concerning proposed state constitutional amendments, proposed county charter amendments, or proposed initiative or referendum issues.

(c) [The chief election officer, at his] At the chief election officer's discretion, the ballot may have a background design imprinted onto [the ballot.] it.

(d) When the electronic voting system is used, the ballot may have pre-punched codes and printed information which identify the voting districts, precincts, and ballot sets to facilitate the electronic data processing of these ballots.

(e) The name of the candidate may be printed with the Hawaiian or English equivalent or nickname, if the candidate so requests in writing at the time [his] the candidate's nomination papers are filed. Candidates' names, including the Hawaiian or English equivalent or nickname, shall be set on one line. [In multirace districts the ballot shall state that the voter shall not vote for more than the number of seats available or the number of candidates listed where such number is less than the seats available.]

(f) [A] The ballot shall bear no word, motto, device, sign, or symbol other than allowed in this title."

SECTION 14. Section 11-113, Hawaii Revised Statutes, is amended to read as follows:

"§11-113 Presidential ballots. (a) In presidential elections, the names of the candidates for president and vice president shall be used on the ballot in lieu of the names of the presidential electors, and the votes cast for president and vice president of each political party shall be counted for the presidential electors and alternates nominated by each political party.

(b) A "national party" as used in this section shall mean a party established and admitted to the ballot in at least one state other than Hawaii or one which is determined by the chief election officer to be making a bona fide effort to become a national party. If there is no national party or the national and state parties or factions in either the national or state party do not agree on the presidential and vice presidential candidates, the chief election officer may determine which candidates' names shall be placed on the ballot or may leave the candidates' names off the ballot completely.

[(b)] (c) All candidates for president and vice president of the United States shall be qualified for inclusion on the general election ballot under either of the following procedures:

(1) In the case of candidates of political parties which have been qualified to place candidates on the primary and general election ballots, the appropriate official of [such party] those parties shall file a sworn application with the chief election officer not later than 4:30 p.m. on the sixtieth day prior to the general election, which shall include:

- (A) The name and address of each of the two candidates;
- (B) A statement that each candidate is legally qualified to serve under the provisions of the United States Constitution;
- (C) A statement that the candidates are the duly chosen candidates of both the state and the national party, giving the time, place, and manner of [such] the selection.

- (2) In the case of candidates of parties or groups not qualified to place candidates on the primary or general election ballots, the person desiring to place [such] the names on the general election ballot shall file with the chief election officer not later than 4:30 p.m. on the sixtieth day prior to the general election:
- (A) A sworn application which shall include the information required under (1) (A) and (B) above, and (C) where applicable;
 - (B) A petition which shall be upon the form prescribed and provided by the chief election officer containing the signatures of currently registered voters which constitute not less than one per cent of the votes cast in the State at the last [general] presidential election. The petition shall contain the names of the candidates, a statement that the persons signing intend to support [such] those candidates, the address of each signatory, the date of [his] the signer's signature and other information as determined by the chief election officer.

Prior to being issued the petition form, the person desiring to place the names on the general election ballot shall submit a notarized statement from each candidate of that person's intent to be a candidate for president or vice president of the United States on the general election ballot in the State of Hawaii.

(d) Each applicant, and the candidates named, shall be notified in writing of [his] the applicant's or candidate's eligibility or disqualification for placement on the ballot not later than 4:30 p.m. on the tenth day after filing or not later than 4:30 p.m. on the fiftieth day prior to the presidential election, whichever is less.

(e) If the applicant, or any other party, individual, or group with a candidate on the presidential ballot, objects to the finding of eligibility or disqualification [he or they] the person may, not later than 4:30 p.m. on the fifth day after the finding, file a request in writing with the chief election officer for a hearing on the question. [Such] A hearing [will] shall be called not later than 4:30 p.m. on the tenth day after the receipt of the request and [will] shall be conducted in accord with chapter 91. A decision [will] shall be issued not later than 4:30 p.m. on the fifth day after the conclusion of the hearing."

SECTION 15. Section 11-117, Hawaii Revised Statutes, is amended to read as follows:

"§11-117 Withdrawal of candidates; disqualification; death; notice. (a) Any candidate may withdraw not later than 4:30 p.m. on the day immediately following the close of filing for any reason and may withdraw after the close of filing up to 4:30 p.m. on the [tenth] twentieth day prior to an election for reasons of ill health [when the notice is accompanied]. When a candidate withdraws for ill health, the candidate shall give notice in writing to the chief election officer if the candidate was seeking a Congressional or state office, or the candidate shall give notice in writing to the county clerk if the candidate was seeking a county office. The notice shall be accompanied by a statement from a licensed physician indicating that such ill health may endanger the candidate's life[, if he is a candidate for member of Congress or for state office, by giving notice in writing to the chief

election officer, or if he is a candidate for a county office, by giving notice in writing to the county clerk of the county in which the candidate was seeking nomination or election].

(b) On receipt of the notice of withdrawal the chief election officer or the clerk shall inform the [chairman] chairperson of the political party of which the person withdrawing was a candidate. When a candidate dies, withdraws, or is disqualified after the close of filing and the ballots have been printed, the chief election officer or the clerk shall either order the candidate's name stricken from the ballot or order that a notice of the disqualification, withdrawal, or death be prominently posted at the appropriate polling [place] places on election day.

(c) In no case shall the filing fee be refunded after filing."

SECTION 16. Section 11-118, Hawaii Revised Statutes, is amended to read as follows:

"§11-118 Vacancies; new candidates; insertion of names on ballots. In case of death, withdrawal, or disqualification of any party candidate after filing, the vacancy so caused may be filled by the appropriate committee of the party. The party shall be notified by the chief election officer or the clerk in the case of a county office immediately after the death, withdrawal, or disqualification. If the party fills the vacancy, and so notifies the chief election officer or clerk not later than 4:30 p.m. on the third day after the vacancy occurs, but not later than 4:30 p.m. on the [thirtieth] fiftieth day prior to a primary[,], or special primary[,], election or not later than 4:30 p.m. on the fortieth day prior to a special, general, or special general election, the name of the replacement shall be printed in an available and appropriate place on the ballot, not necessarily in alphabetical order. If no substitution is made, the candidacy involved shall be declared vacant."

SECTION 17. Section 11-134, Hawaii Revised Statutes, is amended to read as follows:

"§11-134 Ballot transport containers; ballot boxes. (a) The seals of the ballot transport containers shall be broken and opened on election day only in the presence of at least two precinct officials not of the same political party.

(b) The chief election officer shall provide suitable ballot boxes for each polling place needed. They shall have a hinged lid fastened securely by a nonreusable seal. In the center of the lid there shall be an aperture of the appropriate size for the voting system used. The ballot boxes shall be placed at a point convenient for the deposit of ballots and where they can be observed by the precinct officials.

(c) At the opening of the polls for election, the [chairman] chairperson of the precinct officials shall publicly open the ballot boxes and expose them to all persons present to show that they are empty. The ballot boxes shall be closed and sealed; they shall remain sealed [until the polls are closed;] until transported to the counting center; provided that, in precincts where the electronic voting system is used, the ballot boxes shall not be opened at the polling places except [on the island of Niihau.] as provided by rules adopted pursuant to chapter 91."

SECTION 18. Section 11-135, Hawaii Revised Statutes, is amended to read as follows:

"§11-135 Early collection of ballots. [The] In an electronic ballot system election the chief election officer may authorize collection of voted ballots before the closing of the polls in order to facilitate the counting of ballots; provided that the voted ballots shall be returned to the counting center in sealed ballot boxes."

SECTION 19. Section 12-3, Hawaii Revised Statutes, is amended to read as follows:

"§12-3 Nomination paper: format; limitations. (a) The name of no candidate shall be printed upon any official ballot to be used at any primary, special primary, or special election unless a nomination paper was filed in [his] the candidate's behalf and in the name by which [he] the candidate is commonly known. The nomination paper shall be in a form prescribed by the chief election officer containing substantially the following information:

- (1) A statement by the registered voters of the district from which the candidate is running signing the form that they are eligible to vote for the candidate at the next election;
- (2) A statement by the registered voters signing the form that they nominate the candidate for the office on the nomination paper;
- (3) The residence address and county in which the candidate resides;
- (4) The name of the candidate and the office for which [he] the candidate is running, which name and office [is] are to be placed on the nomination paper by the chief election officer or the clerk prior to releasing the form to the candidate;
- (5) Space for the names of the registered voters signing the form and their district or districts and precinct or precincts;
- (6) A certification by the candidate that [he] the candidate will qualify under the law for the office [he] the candidate is seeking;
- (7) A certification by a party candidate that [he] the candidate is a member of the party[, that he believes in the principles and policies of that party, that if elected he will carry out the provisions and pledges of the political platform of the party and will abide by the party's rules and regulations];
- (8) A certification, where applicable, by the candidate that [he] the candidate has complied with the provisions of Article II, section 7, of the Constitution of the State of Hawaii [.] and
- (9) The name the candidate wishes inserted on the ballot and the post office address of the candidate.

(b) No signatures shall be counted, unless they are upon the nomination paper having the format set forth above, written or printed thereon, and if there are separate sheets to be attached to the nomination paper, the sheets shall have the name of the person and the office for which [he] the candidate is running placed thereon by the chief election officer or the clerk. The nomination paper and separate sheets shall be provided by the chief election officer or the clerk.

(c) Nomination papers shall not be filed in behalf of any person for more than one party or for more than one office; nor shall any person file nomination papers both as a party candidate and as a nonpartisan candidate.

(d) The office for which the candidate is running and [his] the candidate's name may not be changed from that indicated on the nomination paper and separate sheets. If the candidate wishes to run for an office different from that for which the nomination paper states, [he] the candidate may request the appropriate nomination paper from the chief election officer or clerk and have it signed by the required number of voters."

SECTION 20. Section 12-6, Hawaii Revised Statutes, is amended to read as follows:

"§12-6 Nomination paper: time for filing; fees. (a) Nomination papers shall be filed as follows: [(1) For] for members of Congress, state, and county offices, and the board of trustees of the office of Hawaiian affairs, with the chief election officer, or clerk in case of county offices, not later than 4:30 p.m. on the sixtieth calendar day prior to the primary, special primary, or special election (but if such day is a Saturday, Sunday, or holiday then not later than 4:30 p.m. on the first working day immediately preceding); provided that any state candidate from the counties of Hawaii, Maui, and Kauai may file [his] the declaration of candidacy with [his] the respective clerk. The clerk shall transmit to the office of the chief election officer the state candidate's declaration of candidacy without delay. However, if a special primary or special election is to be held by a county and the county charter requires that the council shall issue a proclamation calling for the election to be held within a specified period of time, and if that requirement would not allow the filing of nomination papers with the appropriate office by the sixtieth calendar day prior to the day for holding [such] the special primary or special election, the council shall establish the deadline for the filing of nomination papers in the proclamation calling for the election.

[(2)] (b) There shall be deposited with each nomination paper a filing fee on account of the expenses attending the holding of the primary, special primary, or special election which shall be paid into the treasury of the State, or county, as the case may be, as a realization:

[(A)] (1) For United States senators and United States representatives—\$75;

[(B)] (2) For governor and lieutenant governor—\$750;

[(C)] (3) For mayor—\$500; and

[(D)] (4) For all other offices—\$250.

[(3)] (c) Upon the receipt by the chief election officer or the clerk of the nomination paper of a candidate, the day, hour, and minute when it was received shall be endorsed thereon.

[(4)] (d) Upon the showing of a certified copy of an affidavit which has been filed with the campaign spending commission pursuant to section 11-208 by a candidate who has voluntarily agreed to abide by spending limits, the chief election officer or clerk shall discount the filing fee of the candidate by the following amounts:

[(A)] (1) For the office of governor and lieutenant governor—\$675;

[(B)] (2) For the office of mayor—\$450; and

[(C)] (3) For all other offices—\$225.

[(5)] (e) The chief election officer of clerk shall waive the filing fee in the case of a person who declares [himself], by affidavit, [to be] that the person is indigent and who has filed a petition signed by currently registered voters who constitute at least one-half of one per cent of the total voters registered at the [time of filing] last preceding general election in the respective district or districts which correspond to the specific office for which the indigent person is a candidate. This petition shall be submitted on the form prescribed and provided by the chief election officer together with the nomination paper required by this chapter.”

SECTION 21². Section 12-41, Hawaii Revised Statutes, is amended to read as follows:

“**§12-41 Result of election.** (a) The person or persons receiving the greatest number of votes at the primary or special primary as a candidate of a party for an office shall be the candidate of the party at the following general or special general election but not more candidates for a party than there are offices to be elected; [provided that any candidate for any county office who is the sole candidate for that office at the primary or special primary election, or who is only opposed by a candidate or candidates running on his own ticket and is not opposed by any candidate running on any other ticket, nonpartisan or otherwise, and is nominated at the primary or special primary shall, after the primary or special primary be deemed and declared to be duly and legally elected to the office for which he is a candidate at the primary or special primary regardless of the number of votes received by him.] provided that any candidate for any county office who is the sole candidate for that office at the primary or special primary election, or who would not be opposed in the general or special general election by any candidate running on any other ticket, nonpartisan or otherwise, and who is nominated at the primary or special primary election shall, after the primary or special primary election, be declared to be duly and legally elected to the office for which the person was a candidate regardless of the number of votes received by that candidate.

(b) Any nonpartisan candidate receiving at least ten per cent of the total votes cast for the office for which [he] the person is a candidate at the primary or special primary, or a vote equal to the lowest vote received by the partisan candidate who was nominated in the primary or special primary, shall also be a candidate at the following election; provided, that when more nonpartisan candidates qualify for nomination than there are offices to be voted for at the general or special general election, there shall be certified as candidates for the following election those receiving the highest number of votes, but not more candidates than are to be elected.”

SECTION 22. Section 15-9, Hawaii Revised Statutes, is amended to read as follows:

“**§15-9 Return and receipt of absentee ballots.** (a) The return envelope shall be:

- (1) Mailed and must be received by the clerk issuing the absentee ballot not later than the closing of the polls on any election day; or
- (2) Delivered other than by mail to the clerk issuing the absentee ballot not later than the closing of the polls on any election day; or

- (3) Delivered other than by mail to [the regular] any polling place [at] within the county in which the voter is registered and deposited by a precinct official in the ballot box before the closing of the polls on any election day.

(b) Upon receipt of the return envelope from any person voting under this chapter, the clerk or the officials of the absentee polling place shall time stamp the return envelope and deposit it in the correct absentee ballot box, provided that return envelopes delivered to the regular polling [place] places and deposited in the ballot box by a precinct official before the closing of the polls need not be time stamped. [On election day the] The absentee ballot box shall be opened by the officials of the absentee ballot team[.] as provided by rules adopted pursuant to chapter 91.

[(b)] (c) Prior to opening the return and ballot envelopes and counting the ballots, the return envelopes shall be checked for the following:

- (1) Signature on the affirmation statement;
- (2) Whether the signature corresponds with the absentee request or register as prescribed in the rules [promulgated] adopted by the chief election officer; and
- (3) Whether the person is a registered voter and has complied with the requirements of section 11-15 and 11-16.

(d) If any of the above requirements is not met or if the return or ballot envelope appears to be tampered with, the clerk or the absentee ballot team official shall mark across the face of the envelope "invalid" and it shall be kept in the custody of the clerk and disposed of as prescribed for ballots in section 11-154.

(e) If an absentee polling place is established at the clerk's office prior to election day, the officials of the absentee polling place shall check the return or ballot envelopes for the above requirements prior to depositing them in the correct absentee ballot box."

SECTION 23. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 24. This Act shall take effect upon its approval.

(Approved May 12, 1983.)

Notes

1. Edited pursuant to HRS §23G-16.5.
2. Changed from "20" to correct obvious error.

A Bill for an Act Relating to Fair Business Practices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 487, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§487- Appointment of receiver; powers; limitation. (a) If the director initiates any action in circuit court under this chapter against a person for allegedly engaging in unfair or deceptive acts or practices in violation of section 480-2, the

court may appoint a receiver for the assets of such person upon application by the director and proof submitted at a hearing on the application which is sufficient to establish that:

- (1) The person previously engaged in a pattern of unfair or deceptive acts or practices which resulted in substantial actual damages to consumers;
- (2) The person is outside the state or is actually removing or about to remove self or property outside the State or is concealing self or property; or
- (3) The appointment of a receiver is necessary to preserve the assets of the person for the benefit of consumers allegedly damaged by the person's unfair or deceptive acts or practices.

(b) Subject to the limitation in subsection (c), a receiver appointed by the court pursuant to subsection (a) may sue for, collect, receive, and take into possession all the goods and chattels, rights, credits, moneys, effects, lands, tenements, books, records, documents, papers, choses in action, bills, notes, and property of every description, including property with which such property has been commingled, which is owned by or owing to the defendant. The receiver may sell, convey, or assign the property and hold or dispose of the proceeds thereof subject to the approval of the court.

(c) Prior to the judgment, the receiver shall exercise such powers enumerated in subsection (b) as may be necessary to preserve the assets of the defendant pending the judgment."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 36

S.B. NO. 42

A Bill for an Act Relating to Elevator Mechanics.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 [[NEW]] Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1983:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- (3) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- (4) Chapter 466 (Board of Public Accountancy)
- (5) Chapter 467 (Real Estate Commission)
- [(6) Chapter 448H (Elevator Mechanics Licensing Board)]

- (b) The following chapters are hereby repealed effective December 31, 1984:
- (1) Chapter 436D (Board of Acupuncture)
 - (2) Chapter 442 (Board of Chiropractic Examiners)
 - (3) Chapter 448 (Board of Dental Examiners)
 - (4) Chapter 453 (Board of Medical Examiners)
 - (5) Chapter 457 (Board of Nursing)
 - (6) Chapter 447 [(Board] (Dental Hygienists)
- (c) The following chapters are hereby repealed effective December 31, 1985:
- (1) Chapter 460 (Board of Osteopathic Examiners)
 - (2) Chapter 461 (Board of Pharmacy)
 - (3) Chapter 455 (Board of Examiners in Naturopathy)
 - (4) Chapter 463E (Podiatry)
 - (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
 - (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)
 - (7) Chapter 448H (Elevator Mechanics Licensing Board)
- (d) The following chapters are hereby repealed effective December 31, 1986:
- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
 - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
 - (3) Chapter 440 (Boxing Commission)
 - (4) Chapter 460J (Pest Control Board)
 - (5) Chapter 438 (Board of Barbers)
 - (6) Chapter 439 (Board of Cosmetology)
- (e) The following chapters are hereby repealed effective December 31, 1987:
- (1) Chapter 458 (Board of Dispensing Opticians)
 - (2) Chapter 459 (Board of Examiners in Optometry)
 - (3) Chapter 452 (Board of Massage)
 - (4) Chapter 471 (Board of Veterinary Examiners)
 - (5) Chapter 441 (Cemeteries and Mortuaries)
 - (6) Chapter 463 (Board of Detectives and Guards)
- (f) The following chapters are hereby repealed effective December 31, 1988:
- (1) Chapter 465 (Board of Certification for Practicing Psychologists)
 - (2) Chapter 468E (Board of Speech Pathology and Audiology)
 - (3) Chapter 359L (Factory Built Housing Advisory Board)
 - (4) Chapter 468B (Solar Energy Device Dealers)
 - (5) Chapter 468K (Travel Agencies)
 - (6) Chapter 373 (Commercial Employment Agencies)."

SECTION 2. Section 448H-3, Hawaii Revised Statutes, is amended to read as follows:

"§448H-3 Elevator mechanics licensing board; appointment; organization. There is created an elevator mechanics licensing board within the department of commerce and consumer affairs for administrative purposes. The board shall

consist of seven members, [three] four of whom shall be licensed elevator mechanics, [three] two others of whom shall be lay members, not connected or associated with the elevator or building industry, and one of whom shall be the branch manager of the [technical inspection branch], boiler and elevator inspection bureau, division of occupational safety and health, department of labor and industrial relations. The governor shall appoint the members of the board in accordance with section 26-34; provided that in the initial appointment of the board, the elevator mechanic members need not satisfy the licensing requirements of this chapter, but shall have been elevator mechanics registered by the department of labor and industrial relations. The board shall elect one of its members as chairman.

Members of the board shall serve without compensation but shall be reimbursed for travel and other necessary expenses incurred in the performance of official duties."

SECTION 3. Section 448H-4, Hawaii Revised Statutes, is amended to read as follows:

"§448H-4 Meetings; quorum. The board shall meet not less than once a year at a time and place as determined by the board. The board shall also meet [at such other times and places as may be necessary or requested by the department of commerce and consumer affairs] but not later than thirty days prior to the licensing examination pursuant to section 448H-5(2) in order to evaluate applications therefor. [Five] Four members of the board shall constitute a quorum. Any board member who misses two consecutive meetings of the board or fifty per cent of the meetings in a year shall be removed from the board."

SECTION 4. Section 448H-5, Hawaii Revised Statutes, is amended to read as follows:

"§448H-5 Powers and duties of the board. The board shall:

- (1) Adopt rules and regulations in accordance with chapter 91 to carry out the purposes of this chapter;
- (2) Develop, [and] apply, review and upgrade appropriate techniques, including examinations and investigations for determining whether a person meets the requirements of this chapter and standards to insure that elevator mechanics will be persons qualified to serve as such;
- (3) Issue licenses to persons determined, after application of such techniques, to have met such qualifications and revoke or suspend licenses, previously issued by the board pursuant to hearings held in accordance with chapter 91, in any case where the individual holding any such license is determined substantially to have failed to conform to such qualifications, this chapter, or the rules and regulations of the board;
- (4) Establish and carry out procedures designed to insure that persons licensed as elevator mechanics will, during any period they serve as such, comply with the requirements of this chapter, the rules and regulations of the board, and chapter [396] 397 and the rules and regulations promulgated thereunder;

- (5) Receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as an elevator mechanic has failed to comply with the requirements of this chapter regarding any complaint regarding job performance by mechanics, the rules and regulations of the board, or chapter [396] 397 and the rules and regulations promulgated thereunder;
- (6) Register apprentice elevator mechanics;
- (7) Maintain a record of its proceedings;
- (8) Assist and advise the department of labor and industrial relations in the promulgation of rules and regulations relating to the conditions of work for elevator mechanics including requirements related to equipment or facilities essential for the safe installation, repair, maintenance, or alteration of any elevator, dumbwaiter, escalator, moving walk or ramp, and manlift; and
- (9) Notify the department of labor and industrial relations of any fact or situation that, in the opinion of the board, constitutes a violation of chapter [396] 397 or of any rule or regulation promulgated thereunder."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

ACT 37

S.B. NO. 115

A Bill for an Act Relating to the Uniform Unclaimed Property Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 523, Hawaii Revised Statutes, is repealed.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

"CHAPTER UNIFORM UNCLAIMED PROPERTY ACT

§ -1 **Definitions and use of terms.** As used in this chapter, unless the context otherwise requires:

- (1) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.
- (2) "Attorney general" means the chief legal officer of this State.
- (3) "Banking organization" means a bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, or

any organization defined by other law as a bank or banking organization.

- (4) "Business association" means a nonpublic corporation, joint stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.
- (5) "Director" means the director of finance.
- (6) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.
- (7) "Financial organization" means a savings and loan association, cooperative bank, building and loan association, or credit union.
- (8) "Holder" means a person, wherever organized or domiciled, who is:
 - (A) In possession of property belonging to another,
 - (B) A trustee, or
 - (C) Indebted to another on an obligation.
- (9) "Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including accident, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice, marine, mortgage, surety, and wage protection insurance.
- (10) "Intangible property" includes:
 - (A) Moneys, checks, drafts, deposits, interest, dividends, and income;
 - (B) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, payroll checks, unused airline tickets, and unidentified remittances;
 - (C) Stocks and other intangible ownership interests in business associations;
 - (D) Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;
 - (E) Checks payable under the terms of insurance policies; and
 - (F) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.
- (11) "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.
- (12) "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or a person's legal representative.

- (13) "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.
- (14) "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

§ -2 Property presumed abandoned; general rule. (a) Except as otherwise provided by this chapter, all intangible property, including any income or increment derived therefrom, less any lawful charges, that is held, issued, or owing in the ordinary course of a holder's business and has remained unclaimed by the owner for more than five years after it became payable or distributable is presumed abandoned.

(b) Property is payable or distributable for the purpose of this chapter notwithstanding the owner's failure to make demand or to present any instrument or document required to receive payment.

§ -3 General rules for taking custody of intangible unclaimed property. Unless otherwise provided in this chapter or by other statute of this State, intangible property is subject to the custody of this State as unclaimed property if the conditions raising a presumption of abandonment under sections -2 and -5 to -16 are satisfied and:

- (1) The last known address of the apparent owner, as shown on the records of the holder, is in this State;
- (2) The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in this State;
- (3) The records of the holder do not reflect the last known address of the apparent owner, and it is established that:
 - (A) The last known address of the person entitled to the property is in this State, or
 - (B) The holder is a domiciliary or a government or governmental subdivision or agency of this State and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;
- (4) The last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property and the holder is a domiciliary or a government or governmental subdivision or agency of this State;
- (5) The last known address of the apparent owner, as shown on the records of the holder, is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of this State; or
- (6) The transaction out of which the property arose occurred in this State, and:

- (A) (i) The last known address of the apparent owner or other person entitled to the property is unknown, or
- (ii) The last known address of the apparent owner or other person entitled to the property is in a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property, and
- (B) The holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

§ -4 Travelers checks and money orders. (a) Subject to subsection (d), any sum payable on a travelers check that has been outstanding for more than fifteen years after its issuance is presumed abandoned unless the owner, within fifteen years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

(b) Subject to subsection (d), any sum payable on a money order or similar written instrument, other than a third-party bank check, that has been outstanding for more than seven years after its issuance is presumed abandoned unless the owner, within seven years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

(c) A holder shall not deduct from the amount of a travelers check or money order any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the issuer and the owner of the instrument pursuant to which the issuer may impose a charge and the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel them.

(d) No sum payable on a travelers check, money order, or similar written instrument, other than a third-party bank check, described in subsections (a) and (b) may be subjected to the custody of this State as unclaimed property unless:

- (1) The records of the issuer show that the travelers check, money order, or similar written instrument was purchased in this State;
- (2) The issuer has its principal place of business in this State and the records of the issuer do not show the state in which the travelers check, money order, or similar written instrument was purchased; or
- (3) The issuer has its principal place of business in this State, the records of the issuer show the state in which the travelers check, money order, or similar written instrument was purchased, and the laws of the state of purchase do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

(e) Notwithstanding any other provision of this chapter, subsection (d) applies to sums payable on travelers checks, money orders, and similar written instruments presumed abandoned on or after February 1, 1965, except to the extent that those sums have been paid over to a state prior to January 1, 1974.

§ -5 Checks, drafts, and similar instruments issued or certified by banking and financial organizations. (a) Any sum payable on a check, draft, or similar instrument, except those subject to section -4, on which a banking or financial organization is directly liable, including a cashier's check and a certified check, which has been outstanding for more than five years after it was payable or after its issuance if payable on demand, is presumed abandoned, unless the owner, within five years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee thereof.

(b) A holder shall not deduct from the amount of any instrument subject to this section any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose a charge, and the holder regularly imposes such charges and does not regularly reverse or otherwise cancel them.

§ -6 Bank deposits and funds in financial organizations. (a) Any demand, savings, or matured time deposit with a banking or financial organization, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, a mutual investment certificate, or any other interest in a banking or financial organization is presumed abandoned unless the owner, within five years has:

- (1) In the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;
 - (2) Communicated in writing with the banking or financial organization concerning the property;
 - (3) Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization;
 - (4) Owned other property to which paragraph (1), (2), or (3) applies and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this subsection at the address to which communications regarding the other property regularly are sent; or
 - (5) Had another relationship with the banking or financial organization concerning which the owner has:
 - (A) Communicated in writing with the banking or financial organization; or
 - (B) Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship regularly are sent.
- (b) For purposes of subsection (a) property includes interest and dividends.

(c) A holder shall not impose with respect to property described in subsection (a) any charge due to dormancy or inactivity or cease payment of interest unless:

- (1) There is an enforceable written contract between the holder and the owner of the property pursuant to which the holder may impose a charge or cease payment of interest;
- (2) For property in excess of \$2, the holder, no more than three months before the initial imposition of those charges or cessation of interest, has given written notice to the owner of the amount of those charges at the last known address of the owner stating that those charges will be imposed or that interest will cease, but the notice provided in this section need not be given with respect to charges imposed or interest ceased before the effective date of this chapter; and
- (3) The holder regularly imposes such charges or ceases payment of interest and does not regularly reverse or otherwise cancel them or retroactively credit interest with respect to the property.

(d) Any property described in subsection (a) that is automatically renewable is matured for purposes of subsection (a) upon the expiration of its initial time period, but in the case of any renewal to which the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is matured upon the expiration of the last time period for which consent was given. If, at the time provided for delivery in section -19, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture would result.

§ -7 Funds owing under life insurance policies. (a) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for more than five years after the funds became due and payable as established from the records of the insurance company holding or owing the funds, but property described in subsection (c)(2) is presumed abandoned if unclaimed for more than two years.

(b) If a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the company.

(c) For purposes of this chapter, a life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the records of the company is matured and the proceeds due and payable if:

- (1) The company knows that the insured or annuitant has died; or
- (2) (A) The insured has attained, or would have attained if the insured were living, the limiting age under the mortality table on which the reserve is based;

- (B) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in subparagraph (A); and
- (C) Neither the insured nor any other person appearing to have an interest in the policy within the preceding two years, according to the records of the company, has assigned, readjusted, or paid premiums on the policy, subjected the policy to a loan, corresponded in writing with the company concerning the policy, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the company.

(d) For purposes of this chapter, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under subsection (a) if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds thereof before the depletion of the cash surrender value of a policy by the application of those provisions.

(e) If the laws of this State or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last known address according to the records of the company is in this State, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.

(f) Notwithstanding any other provision of law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(g) Commencing two years after the effective date of this Act, every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this State shall request the following information:

- (1) The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class;
- (2) The address of each beneficiary; and
- (3) The relationship of each beneficiary to the insured.

§ -8 Deposits held by utilities. A deposit, including any interest thereon, made by a subscriber with a utility to secure payment or any sum paid in advance for utility services to be furnished, less any lawful deductions, that remains unclaimed by the owner for more than one year after termination of the services for which the deposit or advance payment was made is presumed abandoned.

§ -9 Refunds held by business associations. Except to the extent otherwise ordered by the court or administrative agency, any sum that a business association has been ordered to refund by a court or administrative agency which has remained unclaimed by the owner for more than one year after it became payable in accordance with the final determination or order providing for the refund, whether or not the final determination or order requires any person entitled to a refund to make a claim for it, is presumed abandoned.

§ -10 Stock and other intangible interests in business associations. (a) Except as provided in subsections (b) and (e), stock or other intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, is presumed abandoned and, with respect to the interest, the association is the holder, if a dividend, distribution, or other sum payable as a result of the interest has remained unclaimed by the owner for seven years and the owner within seven years has not:

- (1) Communicated in writing with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest; or
- (2) Otherwise communicated with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association.

(b) At the expiration of a seven-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least seven dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If seven dividends, distributions, or other sums are paid during the seven-year period, the period leading to a presumption of abandonment commences on the date payment of the first such unclaimed dividend, distribution, or other sum became due and payable. If seven dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been seven dividends, distributions, or other sums that have not been claimed by the owner.

(c) The running of the seven-year period of abandonment ceases immediately upon the occurrence of a communication referred to in subsection (a). If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.

(d) At the time an interest is presumed abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously presumed abandoned, is presumed abandoned.

(e) This chapter does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless the records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within seven years communicated in any manner described in subsection (a).

§ -11 Property of business associations held in course of dissolution. Intangible property distributable in the course of a dissolution of a business association which remains unclaimed by the owner for more than one year after the date specified for final distribution is presumed abandoned.

§ -12 Property held by agents and fiduciaries. (a) Intangible property and any income or increment derived therefrom held in a fiduciary capacity for the

benefit of another person is presumed abandoned unless the owner, within five years after it has become payable or distributable, has increased or decreased the principal, accepted payment of principal or income, communicated concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by the fiduciary.

(b) Funds in an individual retirement account or a retirement plan for self-employed individuals or similar account or plan established pursuant to the Internal Revenue laws of the United States are not payable or distributable within the meaning of subsection (a) unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

(c) For the purpose of this section, a person who holds property as an agent for a business association is deemed to hold the property in a fiduciary capacity for that business association alone, unless the agreement between the person and the business association provides otherwise.

(d) For the purposes of this chapter, a person who is deemed to hold property in a fiduciary capacity for a business association alone is the holder of the property only insofar as the interest of the business association in the property is concerned, and the business association is the holder of the property insofar as the interest of any other person in the property is concerned.

§ -13 Property held by courts and public agencies. Intangible property held for the owner by a court, state, or other government, governmental subdivision or agency, public corporation, or public authority which remains unclaimed by the owner for more than one year after becoming payable or distributable is presumed abandoned.

§ -14 Gift certificates and credit memos. (a) A gift certificate or a credit memo issued in the ordinary course of an issuer's business which remains unclaimed by the owner for more than five years after becoming payable or distributable is presumed abandoned.

(b) In the case of a gift certificate, the amount presumed abandoned is the price paid by the purchaser for the gift certificate. In the case of a credit memo, the amount presumed abandoned is the amount credited to the recipient of the memo.

§ -15 Wages. Unpaid wages, including wages represented by unpresented payroll checks, owing in the ordinary course of the holder's business which remain unclaimed by the owner for more than one year after becoming payable are presumed abandoned.

§ -16 Contents of safe deposit box or other safekeeping repository. All tangible and intangible property held in a safe deposit box or any other safekeeping repository in this State in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law, which remain unclaimed by the owner for more than five years after the lease or rental period on the box or other repository has expired, are presumed abandoned.

§ -17 Report of abandoned property. (a) A person holding property tangible or intangible, presumed abandoned and subject to custody as unclaimed property under this chapter shall report to the director concerning the property as provided in this section.

(b) The report shall be verified and shall include:

- (1) Except with respect to travelers checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of \$25 or more presumed abandoned under this chapter;
 - (2) In the case of unclaimed funds of \$25 or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds;
 - (3) In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible property, a description of the property and the place where it is held and may be inspected by the director and any amounts owing to the holder;
 - (4) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under \$25 each may be reported in the aggregate;
 - (5) The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property; and
 - (6) Other information the director prescribes by rule as necessary for the administration of this chapter.
- (c) If the person holding property presumed abandoned and subject to custody as unclaimed property is a successor to other persons who previously held the property for the apparent owner or the holder has changed the holder's name while holding the property, the person shall file with the person's report all known names and addresses of each previous holder of the property.
- (d) The report shall be filed before November 1 of each year as of June 30, next preceding, but the report of any life insurance company shall be filed before May 1 of each year as of December 31 next preceding. On written request by any person required to file a report, the director may postpone the reporting date.
- (e) Not more than one hundred twenty days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner at the apparent owner's last known address informing the apparent owner that the holder is in possession of property subject to this chapter if:

- (1) The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate,
- (2) The claim of the apparent owner is not barred by the statute of limitations, and
- (3) The property has a value of \$50 or more.

§ -18 Notice and publication of lists of abandoned property. (a) The director shall cause a notice to be published not later than March 1, or in the case of property reported by life insurance companies, September 1, of the year immediately following the report required by section -17 at least once a week for two consecutive weeks in a newspaper of general circulation in the county of this State

in which is located the last known address of any person to be named in the notice. If no address is listed or the address is outside this State, the notice shall be published in the county in which the holder of the property has its principal place of business within this State.

(b) The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property" and contain:

- (1) The names in alphabetical order and last known address, if any, of persons listed in the report and entitled to notice within the county as specified in subsection (a);
- (2) A statement that information concerning the property and the name and last known address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the director; and
- (3) A statement that if proof of claim is not presented by the owner to the holder and the owner's right to receive the property is not established to the holder's satisfaction before April 20, or, in the case of property reported by life insurance companies, before October 20, the property will be placed not later than May 1, or in the case of property reported by life insurance companies, not later than November 1, in the custody of the director and all further claims shall thereafter be directed to the director.

(c) The director shall not be required to publish in the notice any items of less than \$50 unless the director considers their publication to be in the public interest.

(d) This section shall not apply to sums payable on travelers checks, money orders, and other written instruments presumed abandoned under section - 4.

§ -19 Payment or delivery of abandoned property. (a) Except as otherwise provided in subsections (b) and (c), a person who is required to file a report under section -17, within six months after the final date for filing the report as required by section -17, shall pay or deliver to the director all abandoned property required to be reported.

(b) If the owner establishes the right to receive the abandoned property to the satisfaction of the holder before the property has been delivered or it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property to the director, and the property will no longer be presumed abandoned. In that case, the holder shall file with the director a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

(c) Property reported under section -17 for which the holder is not required to report the name of the apparent owner shall be delivered to the director at the time of filing the report.

(d) The holder of an interest under section -10 shall deliver a duplicate certificate or other evidence of ownership if the holder does not issue certificates of ownership to the director. Upon delivery of a duplicate certificate to the director, the holder and any transfer agent, registrar, or other person acting for or on behalf of

a holder in executing or delivering the duplicate certificate is relieved of all liability of every kind in accordance with section -20 to every person, including any person acquiring the original certificate or the duplicate of the certificate issued to the director, for any losses or damages resulting to any person by the issuance and delivery to the director of the duplicate certificate.

§ -20 Custody by State; holder relieved from liability; reimbursement of holder paying claim; reclaiming for owner; defense of holder; payment of safe deposit box or repository charges. (a) Upon the payment or delivery of property to the director, the State assumes custody and responsibility for the safekeeping of the property. A person who pays or delivers property to the director in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property.

(b) A holder who has paid money to the director pursuant to this chapter may make payment to any person appearing to the holder to be entitled to payment and, upon filing proof of payment and proof that the payee was entitled thereto, the director shall promptly reimburse the holder for the payment without imposing any fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a travelers check or money order, the holder shall be reimbursed under this subsection upon filing proof that the instrument was duly presented and that payment was made to a person who appeared to the holder to be entitled to payment. The holder shall be reimbursed for payment made under this subsection even if the payment was made to a person whose claim was barred under section -29(a).

(c) A holder who has delivered property (including a certificate of any interest in a business association) other than money to the director pursuant to this chapter may reclaim the property if still in the possession of the director, without paying any fee or other charge, upon filing proof that the owner has claimed the property from the holder.

(d) The director may accept the holder's affidavit as sufficient proof of the facts that entitle the holder to recover money and property under this section.

(e) If the holder pays or delivers property to the director in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the director, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.

(f) For the purposes of this section, "good faith" means that:

- (1) Payment or delivery was made in a reasonable attempt to comply with this chapter;
- (2) The person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to the person, that the property was abandoned for the purposes of this chapter; and
- (3) There is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

(g) Property removed from a safe deposit box or other safekeeping repository is received by the director subject to the holder's right under this subsection to be reimbursed for the actual cost of the opening and to any valid lien or contract providing for the holder to be reimbursed for unpaid rent or storage charges. The director shall reimburse or pay the holder out of the proceeds remaining after deducting the director's selling cost.

§ -21 Crediting of dividends, interest, or increments to owner's account. Whenever property other than money is paid or delivered to the director under this chapter, the owner is entitled to receive from the director any dividends, interest, or other increments realized or accruing on the property at or before liquidation or conversion thereof into money.

§ -22 Public sale of abandoned property. (a) Except as provided in subsections (b) and (c), the director, within three years after the receipt of abandoned property, shall sell it to the highest bidder at public sale wherever in the State affords in the judgment of the director the most favorable market for the property involved. The director may decline the highest bid and reoffer the property for sale if in the judgment of the director the bid is insufficient. If in the judgment of the director the probable cost of sale exceeds the value of the property, it need not be offered for sale. Any sale held under this section shall be preceded by a single publication of notice, at least three weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

(b) Securities listed on an established stock exchange shall be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the director considers advisable.

(c) Unless the director considers it to be in the best interest of the State to do otherwise, all securities, other than those presumed abandoned under section -10, delivered to the director shall be held for at least one year before the director may sell them.

(d) Unless the director considers it to be in the best interest of the State to do otherwise, all securities presumed abandoned under section -10 and delivered to the director shall be held for a least three years before the director may sell them. If the director sells any securities delivered pursuant to section -10 before the expiration of the three-year period, any person making a claim pursuant to this chapter before the end of the three-year period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater, less any deduction for fees pursuant to section -23(b). A person making a claim under this chapter after the expiration of this period is entitled to receive either the securities delivered to the director by the holder, if they still remain in the hands of the director, or the proceeds received from sale, less any amounts deducted pursuant to section -23(b), but no person has any claim under this chapter against the State, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the director.

(e) The purchaser of property at any sale conducted by the director pursuant to this chapter takes the property free of all claims of the owner or previous

holder thereof and of all persons claiming through or under them. The director shall execute all documents necessary to complete the transfer of ownership.

§ -23 **Deposit of funds.** (a) Except as otherwise provided by this section, the director shall promptly deposit in the general fund of this State all funds received under this chapter, including the proceeds from the sale of abandoned property under section -22.

(b) Before making any deposit to the credit of the general fund, the director may deduct:

- (1) Any costs in connection with the sale of abandoned property;
- (2) Costs of mailing and publication in connection with any abandoned property;
- (3) Reasonable service charges; and
- (4) Costs incurred in examining records of holders of property and in collecting the property from those holders.

§ -24 **Filing of claim with director.** (a) A person, excluding another state, claiming an interest in any property paid or delivered to the director may file with the director a claim on a form prescribed by the director and verified by the claimant.

(b) The director shall consider each claim within ninety days after it is filed and give written notice to the claimant if the claim is denied in whole or in part. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If no address for notices is stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.

(c) If a claim is allowed, the director shall pay over or deliver to the claimant the property or the amount the director actually received or the net proceeds if it has been sold by the director, together with any additional amount required by section -21. If the claim is for property presumed abandoned under section -10 which was sold by the director within three years after the date of delivery, the amount payable for that claim is the value of the property at the time the claim was made or the net proceeds of sale, whichever is greater.

§ -25 **Claim of another state to recover property; procedure.** (a) At any time after property has been paid or delivered to the director under this chapter another state may recover the property if:

- (1) The property was subject to custody by this State because the records of the holder did not reflect the last known address of the apparent owner when the property was presumed abandoned under this chapter, and the other state establishes that the last known address of the apparent owner or other person entitled to the property was in that state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state;
- (2) The last known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder, is in the other state and under the laws of that state the property has escheated to or become subject to a claim of abandonment by that state;

- (3) The records of the holder were erroneous in that they did not accurately reflect the actual owner of the property and the last known address of the actual owner is in the other state and under the laws of that state the property escheated to or was subject to a claim of abandonment by that state;
- (4) The property was subjected to custody by this State under section - 3(6) and under the laws of the state of domicile of the holder the property has escheated to or become subject to a claim of abandonment by that state; or
- (5) The property is the sum payable on a travelers check, money order, or other similar instrument that was subjected to custody by this State under section -4, and the instrument was purchased in the other state, and under the laws of that state the property escheated to or became subject to a claim of abandonment by that state.

(b) The claim of another state to recover escheated or abandoned property shall be presented in a form prescribed by the director, who shall decide the claim within ninety days after it is presented. The director shall allow the claim if the director determines that the other state is entitled to the abandoned property under subsection (a).

(c) The director shall require a state, before recovering property under this section, to agree to indemnify this State and its officers and employees against any liability on a claim for the property.

§ -26 **Action to establish claim.** A person aggrieved by a decision of the director or whose claim has not been acted upon within ninety days after its filing may bring an action to establish the claim in the circuit court, naming the director as a defendant. The action shall be brought within ninety days after the decision of the director or within one hundred eighty days after the filing of the claim if the director has failed to act on it. If the aggrieved person establishes the claim in an action against the director, the court shall award the aggrieved person costs and reasonable attorney's fees.

§ -27 **Election to take payment or delivery.** The director may decline to receive any property reported under this chapter which the director considers to have a value less than the expense of giving notice and of sale. If the director elects not to receive custody of the property, the holder shall be notified within one hundred twenty days after filing the report required under section -17.

§ -28 **Destruction or disposition of property having insubstantial commercial value; immunity from liability.** If the director determines after investigation that any property delivered under this chapter has insubstantial commercial value, the director may destroy otherwise dispose of the property at any time. No action or proceeding may be maintained against this State or any officer or against the holder for or on account of any action taken by the director pursuant to this section.

§ -29 **Periods of limitation.** (a) The expiration, before or after the effective date of this Act, of any period of time specified by contract, statute, or court order, during which a claim for money or property can be made or during which an action or proceeding may be commenced or enforced to obtain payment of

a claim for money or to recover property, does not prevent the money or property from being presumed abandoned or affect any duty to file a report or to pay or deliver abandoned property to the director as required by this chapter.

(b) No action or proceeding may be commenced by the director with respect to any duty of a holder under this chapter more than ten years after the duty arose.

§ -30 Requests for reports and examination of records. (a) The director may require any person who has not filed a report to file a verified report stating whether or not the person is holding any unclaimed property reportable or deliverable under this chapter.

(b) The director, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with this chapter. The director may conduct the examination even if the person believes the person is not in possession of any property reportable or deliverable under this chapter.

(c) If a person is treated under section -12 as the holder of the property only insofar as the interest of the business association in the property is concerned, the director, pursuant to subsection (b), may examine the records of the person if the director has given the notice required by subsection (b) to both the person and the business association at least ninety days before the examination.

(d) If an examination of the records of a person results in the disclosure of property reportable and deliverable under this chapter, the director may assess the cost of the examination against the holder but in no case shall the charges exceed the value of the property found to be reportable and deliverable. The cost of examination made pursuant to subsection (c) shall be imposed only against the business association.

(e) If a holder fails after the effective date of this Act to maintain the records required by section -31 and the records of the holder available for the periods subject to this chapter are insufficient to permit the preparation of a report, the director may require the holder to report and pay such amounts as may reasonably be estimated from any available records.

§ -31 Retention of records. (a) Every holder required to file a report under section -17, as to any property for which it has obtained the last known address of the owner, shall maintain a record of the name and last known address of the owner for five years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (b) or by rule of the director.

(b) Any business association that sells in this State its travelers checks, money orders, or other similar written instruments, other than third-party bank checks on which the business association is directly liable, or that provides such instruments to others for sale in this State, shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for three years after the date the property is reportable.

§ -32 Enforcement. The director may bring an action in a court of competent jurisdiction to enforce this chapter.

§ -33 Interstate agreements and cooperation; joint and reciprocal actions with other states. (a) The director may enter into agreements with other

states to exchange information needed to enable this or another state to audit or otherwise determine unclaimed property that it or another state may be entitled to subject to a claim of custody. The director by rule may require the reporting of information needed to enable compliance with agreements made pursuant to this section and prescribe the form.

(b) To avoid conflicts between the director's procedures and the procedures of administrators in other jurisdictions that enact the Uniform Unclaimed Property Act, the director, so far as is consistent with the purposes, policies, and provisions of this chapter, before adopting, amending, or repealing rules, shall advise and consult with administrators in other jurisdictions that enact substantially the Uniform Unclaimed Property Act and take into consideration the rules of administrators in other jurisdictions that enact the Uniform Unclaimed Property Act.

(c) The director may join with other states to seek enforcement of this chapter against any person who is or may be holding property reportable under this chapter.

(d) At the request of another state, the attorney general of this State may bring an action in the name of the appropriate officer of the other state in any court of competent jurisdiction to enforce the unclaimed property laws of the other state against a holder in this State of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the attorney general in bringing the action.

(e) The director may request that the attorney general of another state or any other person bring an action in the name of the director in the other state. This State shall pay all expenses including attorney's fees in any action under this subsection. Any expenses paid pursuant to this subsection shall not be deducted from the amount that is subject to the claim by the owner under this chapter.

§ -34 Interest and penalties. (a) A person who fails to pay or deliver property within the time prescribed by this chapter shall pay to the director interest at the annual rate of ten per cent above the annual rate of discount, in effect on the date the property should have been paid or delivered, for the most recent issue of fifty-two-week United States Treasury bills on the property or value thereof from the date the property should have been paid or delivered.

(b) A person who wilfully fails to render any report or perform other duties required under this chapter shall pay a civil penalty of \$100 for each day the report is withheld or the duty is not performed, but not more than \$5,000.

(c) A person who wilfully fails to pay or deliver property to the director as required under this chapter shall pay a civil penalty equal to twenty-five per cent of the value of the property that should have been paid or delivered.

(d) A person who wilfully refuses after written demand by the director to pay or deliver property to the director as required under this chapter shall be guilty of a misdemeanor.

§ -35 Agreement to locate reported property. All agreements to pay compensation to recover or assist in the recovery of property reported under section -17, made within twenty-four months after the date payment or delivery is made under section -19, are unenforceable.

§ -36 **Foreign transactions.** This chapter does not apply to any property held, due and owing in a foreign country and arising out of a foreign transaction.

§ -37 **Effect of new provisions; clarification of application.** (a) This chapter does not relieve a holder of a duty that arose before the effective date of this chapter to report, pay, or deliver property. A holder who did not comply with the law in effect before the effective date of this chapter is subject to the applicable enforcement and penalty provisions that then existed and they are continued in effect for the purpose of this subsection, subject to section -29(b).

(b) The initial report filed under this chapter for property that was not required to be reported before the effective date of this chapter but which is subject to this chapter shall include all items of property that would have been presumed abandoned during the ten-year period preceding the effective date of this chapter as if this chapter had been in effect during that period.

§ -38 **Rules.** The director may adopt necessary rules, pursuant to chapter 91, to carry out the provisions of this chapter.

§ -39 **Severability.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

§ -40 **Uniformity of application and construction.** This chapter shall be applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

§ -41 **Short title.** This chapter may be cited as the "Uniform Unclaimed Property Act".

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

ACT 38

S.B. NO. 176

A Bill for an Act Relating to Electricians and Plumbers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 448E-5, Hawaii Revised Statutes, is amended to read:

"§448E-5 **Minimum requirements.** An applicant shall possess the following minimum qualifications:

- (1) Journeyman electrician. Every applicant to be eligible for the journeyman electrician examination shall be at least eighteen years of age and must provide satisfactory evidence of experience in residential or commercial wiring of at least four years full-time or its equivalent, but not less than 8,000 hours as a journeyman or supervising electrician's helper.
- (2) Journeyman specialty electrician. Every applicant to be eligible for the journeyman specialty electrician examination shall be at least eighteen

years of age and must have had at least four years' experience in the trade.

- (3) Supervising electrician. Every applicant to be eligible for the supervising electrician examination shall have been registered with the board as a journeyman electrician for at least a period of two years in the trade or shall have had equivalent experience in the trade.
- (4) Supervising specialty electrician. Every applicant to be eligible for the supervising specialty electrician examination shall have been registered with the board as a journeyman specialty electrician for at least a period of two years in the trade or shall have had equivalent experience in the trade.
- (5) [Motion picture operator. Every applicant to be eligible for the motion picture operator examination shall be not less than eighteen years of age and shall have had not less than one year of experience under supervision of a registered motion picture operator in the operation of machines for the projection of motion pictures for commercial purposes in the trade.
- (6)] Journeyman plumber. Every applicant to be eligible for the journeyman plumber examination shall have had experience of at least five years' full-time or its equivalent but not less than 10,000 hours as a journeyman's or master plumber's helper, and is able to furnish satisfactory evidence of such fact.
- [(7)] (6) Master plumber. Every applicant to be eligible for the master plumber examination shall have been registered with the board as a journeyman plumber for at least two years or shall have had equivalent experience in the trade.
- [(8)] (7) Maintenance electrician. Every applicant to be eligible for the maintenance electrician examination shall be not less than eighteen years of age[.] and shall have had at least one year of experience in performing electrical maintenance work or proof of two years of schooling in the electrical trade.
- [(9)] (8) Journeyman industrial electrician. Every applicant to be eligible for the journeyman industrial electrician examination shall be at least eighteen years of age and must have had experience in industrial electrical work of at least four years full-time or its equivalent, but not less than 8,000 hours.
- [(10)] (9) Supervising industrial electrician. Every applicant to be eligible for the supervising industrial electrician examination shall have been registered with the board as a journeyman industrial electrician for a period of at least two years or shall have had equivalent experience in the trade."

SECTION 2. Section 448E-14, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 4. This Act shall take effect upon its approval; provided that the deletion of §448E-5(5) relating to motion picture operators shall become effective

when and if H.B. No. 657 or any other equivalent House or Senate bill becomes effective which deletes motion picture operators from regulation by the Board of Electricians and Plumbers.

(Approved May 18, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 39

S.B. NO. 179

A Bill for an Act Relating to Mortgage Brokers and Solicitors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 454-1, Hawaii Revised Statutes, is amended to read as follows:

“§454-1 Definitions. In this chapter unless the context or subject matter otherwise requires:

- (1) “Person” means an individual, partnership, corporation, association, or other organization.
- (2) “Mortgage loan” means a loan secured by a mortgage on real property.
- (3) “Mortgage broker” means a person not exempt under section 454-2 who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly makes, negotiates, acquires, or sells or offers to make, negotiate, acquire, or sell a mortgage loan, but excluding transactions involving the sale or purchase of notes or bonds secured by mortgages which are subject to registration under chapter 485.
- (4) “Mortgage solicitor” means an individual not licensed as a mortgage broker who performs any of the functions set forth in paragraph (3) of this section and who is employed by a mortgage broker or whose business transactions are under the direction, control, or management of a mortgage broker.
- (5) “Mortgage commissioner” or “commissioner” means the director of [regulatory agencies who is hereinafter referred to as the “commissioner.”] commerce and consumer affairs.
- (6) “Licensee” means a person, whether mortgage broker or mortgage solicitor, licensed under this chapter.
- (7) “License” means a license issued under this chapter.
- (8) “Institutional investor” means and includes (a) banks, savings and loan institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit sharing trusts, any of the class of persons permitted to qualify as foreign lenders under section 207-11, or other financial institutions or institutional buyers, whether acting for themselves or as fiduciaries; (b) the United States or any foreign government, any state or territory thereof, or any agency or corporate or other instrumentality of the

United States, a foreign government, or of any state, territory or political subdivision thereof.”

SECTION 2. Section 454-2, Hawaii Revised Statutes, is amended to read as follows:

“§454-2 Exemptions. This chapter does not apply to the following:

- (1) Banks, trust companies, building and loan associations, pension trusts, credit unions, insurance companies, industrial loan companies, or federally licensed small business investment companies, authorized under any law of this State or of the United States to do business in the State[.];
- (2) A person making or acquiring a mortgage loan with [his] one’s own funds for [his] one’s own investment without intent to resell the mortgage loan[.];
- (3) A person licensed to practice law in the State, not actively and principally engaged in the business of negotiating loans secured by real property, when [such] the person renders services in the course of [his] the person’s practice as an attorney[.]; and
- (4) A person licensed as a real estate broker or salesman in the State, not actively engaged in the business of negotiating loans secured by real property, when [such] the person renders services in the course of [his] the person’s practice as a real estate broker or salesman.”

SECTION 3. Section 454-3, Hawaii Revised Statutes, is amended to read as follows:

“§454-3 Licensing, requirements, application. (a) No person shall act as a mortgage broker or mortgage solicitor without a license therefor as provided in this chapter, and no person not licensed under this chapter shall charge or receive any commission, fee, or bonus in connection with arranging for, negotiating, or selling a mortgage loan.

(b) No mortgage broker or mortgage solicitor license shall be granted to any person who is not [a citizen of the United States, or who is not] eighteen years of age or older. If the applicant is a person other than an individual, no license shall be granted unless the applicant first registers to do business in this State with the business registration division of the department of commerce and consumer affairs.

(c) Every person licensed as a mortgage broker shall deposit with the [mortgage] commissioner, prior to doing business [as such], a bond in the amount of \$15,000, executed by the mortgage broker as principal and a surety company authorized to do business in the State as a surety. The bond shall be conditioned upon the faithful compliance of the broker with the provisions of this chapter. The bond shall run to the State for the benefit of any person injured by the wrongful act, default, fraud, or misrepresentation of the broker or [his] the solicitors; provided, that the aggregate liability of the surety shall, in no event, exceed the sum of the bond. The surety may cancel the bond by giving sixty days’ notice in writing to the commissioner and shall thereafter be relieved of any liability for any breach of condition occurring after the effective date of cancellation. A mortgage broker’s

license shall not be in effect at any time when the bond is not in full force and effect. Only one bond shall be required of any person.

(d) Each application for a license or its renewal shall be made in writing, on the forms and in the manner and accompanied by evidence in support of the applications as prescribed by the commissioner. The commissioner shall require [such] information with regard to the applicant as [he] the commissioner may deem desirable, with due regard to the paramount interests of the public, as to the experience, integrity, and competency of the applicant as to financial transactions involving primary or subordinate mortgage financing. In the event the commissioner orders denial of issuance or of renewal of a license, [such] the order shall be made only pursuant to chapter 91.

(e) The license fee for a license calendar year or any part thereof shall be \$100 for a mortgage broker and \$25 for a mortgage solicitor, which fees shall be deposited by the commissioner with the director of finance to the credit of the general fund. Failure of any mortgage broker or mortgage solicitor to pay the license fee for a license calendar year on or before December 31 of the preceding calendar year shall constitute an automatic forfeiture of the broker's or solicitor's license. A broker's or solicitor's license which is forfeited for nonpayment of the license fee may be restored; provided that application for restoration is made within six months of the forfeiture and a penalty fee in the amount of \$100 for mortgage brokers and \$25 for mortgage solicitors is paid in addition to the delinquent license fee.

(f) If the licensee is a person other than an individual, the license issued to it entitles one officer or member thereof, on behalf of the corporation, partnership, association, or other organization, to engage in the business of mortgage broker, and [such] the officer or member shall be designated in the application for license. Each officer or member, other than the officer or member so designated through whom it engages in the business of mortgage broker, shall be required to be licensed as a mortgage solicitor as provided in this chapter.

(g) A license shall be prominently displayed in the office of the mortgage broker. A mortgage solicitor's license shall remain in the possession of the licensed mortgage broker employer until canceled or until the mortgage solicitor leaves the employ of the mortgage broker. A license shall not be transferable or assignable; provided, that upon payment of a reissuance fee of \$3, a new license may be issued to a mortgage solicitor, valid for the remainder of the calendar year in which it is issued, when [he] the mortgage solicitor is employed by a different mortgage broker.

(h) Immediately upon the mortgage solicitor's withdrawal from the employ of the mortgage broker, the mortgage broker shall return the mortgage solicitor's license to the commissioner for cancellation.

(i) Every licensed mortgage broker shall have and maintain a principal place of business in the State for the transaction of business. The license shall specify the address of [said] the principal place of business. In the event the mortgage broker maintains a branch office or offices, the commissioner shall, upon application and payment of a fee of \$2, issue a branch office license specifying thereon the address of the branch office. The mortgage broker shall designate a

mortgage solicitor to be in charge of each branch office. In case the address of the principal place of business or of any branch office is changed, the licensee shall notify the commissioner of the change of address, and the commissioner shall endorse the change of address on the license without charge."

SECTION 4. Section 454-3.5, Hawaii Revised Statutes, is amended to read as follows:

"**[[§454-3.5]] Restrictions.** Notwithstanding any exemption provision contained in chapter 485, no mortgage broker or mortgage solicitor licensed under this chapter shall directly or indirectly sell, offer to sell or negotiate mortgage loans to more than twenty-five persons, other than institutional investors, during a period of twelve consecutive months. Each mortgage broker and mortgage solicitor shall respond to all appropriate inquiries and investigations conducted by the [mortgage] commissioner in this regard."

SECTION 5. Section 454-4, Hawaii Revised Statutes, is amended to read as follows:

"**§454-4 Suspension, revocation.** (a) The [mortgage] commissioner may suspend a license for a period not exceeding two years for any of the following acts or conduct of a licensee:

- (1) Making a false promise tending to influence, persuade, or induce, or pursuing a course of misrepresentation or false promises through agents, solicitors, advertising, or otherwise;
- (2) Misrepresentation or concealment of any material fact with respect to any transaction resulting in injury to any party;
- (3) Failure to disburse funds in accordance with an agreement;
- (4) Failure to account or deliver to any person any personal property such as money, fund, deposit, check, draft, mortgage, or other document or thing of value which has come into [his] the person's hands and which is not [his] the person's property or which [he] the person is not in law or equity entitled to retain, and at the time which has been agreed upon, or is required by law, or, in the absence of a fixed time, upon demand of the person entitled to [such] the accounting or delivery;
- (5) Failure to place, within a reasonable time upon receipt, any money, fund, deposit, check, or draft, entrusted to [him] the licensee by any person dealing with [him] the licensee as a broker, in escrow pursuant to a written agreement, or to deposit the funds in a trust or escrow bank account maintained by [him] the licensee with a bank located and doing business in the State, wherein the funds shall be kept until disbursement thereof is authorized; or
- (6) Failure to comply with this chapter or any order[, or rule[, or regulation] made under the authority of this chapter.

(b) The commissioner may revoke a license if the application for the license contains a material misstatement, the licensee demonstrates by a course of conduct negligence or incompetence in performing any act for which [he] the licensee is required to be licensed under this chapter, or the licensee for a second

time is responsible for misconduct which warrants suspension under subsection (a) [of this section].

(c) For a licensee other than an individual, it shall be sufficient cause for the suspension or revocation of the license that any officer, director, or member of the licensed corporation, partnership, association, or other organization has so acted as would be cause for suspension or revocation of a license to [such] the party as an individual.

(d) Orders for suspension or revocation shall be made only pursuant to chapter 91."

SECTION 6. Section 454-5, Hawaii Revised Statutes, is amended to read as follows:

"§454-5 Power to investigate and enjoin. (a) If the [mortgage] commissioner has reason to believe that a licensee or any person has violated this chapter, or the rules [and regulations] adopted pursuant thereto, or that any license issued under this chapter may be subject to suspension or revocation, the commissioner may make [such] an investigation as [he] the commissioner deems necessary and may examine the books, records, accounts, and files of any licensee or person. If the commissioner finds from satisfactory evidence that any licensee or person has violated this chapter, [he] the commissioner may bring an action in the name [of the people] of the State in any court of competent jurisdiction against the licensee or person to enjoin the licensee or person from continuing the violation or engaging therein or doing any act or acts in furtherance thereof.

(b) Any person having reason to believe that this chapter or the rules [and regulations] adopted pursuant thereto, have been violated or that a license issued under this chapter is subject to suspension or revocation, may file with the commissioner a written complaint setting forth the details of the alleged violation or grounds for suspension or revocation."

SECTION 7. Section 454-6, Hawaii Revised Statutes, is amended to read as follows:

"§454-6 Power of commissioner. The [mortgage] commissioner may [promulgate such] adopt rules [and regulations] pursuant to chapter 91, as amended, as [he] the commissioner deems necessary for the administration of this chapter. The rules [and regulations] shall include, but not be limited to the following:

- (1) Advertising;
- (2) Solicitation; and
- (3) Specifications as to the forms and procedures to be used in the making of any mortgage loan."

SECTION 8. Section 454-7, Hawaii Revised Statutes, is amended to read as follows:

"§454-7 Fees, commissions, and charges. The [mortgage] commissioner may also [promulgate] adopt rules [and regulations] concerning maximum fees, commissions, and charges on mortgage loan transactions. The maximum fees, commissions, and charges shall be related to the actual amount of money made available to the borrower, over and above the indebtedness of prior mortgages. The

ACT 40

commissioner may also [promulgate] adopt rules [and regulations] concerning the full disclosure of the fees, commissions, and charges."

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

ACT 40

S.B. NO. 186

A Bill for an Act Relating to Private Investigators and Guards.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 463-1, Hawaii Revised Statutes, is amended to read as follows:

"§463-1 Definitions. As used in this chapter:

- (1) "Detective" or "investigator" means [a private detective or investigator.] a licensed person qualified to obtain information and evidence not readily or publicly accessible.
- (2) "Guard" means a [private guard, guard-patrolman, patrolman, or watchman.] licensed uniformed or nonuniformed person responsible for the safekeeping by the licensed person's presence, of a client's properties and persons within contractually prescribed boundaries, and for observation and reporting relative to such safekeeping.
- (3) "Board" means the board of private¹ detectives and guards described in section 463-2.
- (4) "Detective or guard agency" means a corporation, partnership, or association engaged in the private detective or guard business."

SECTION 2. Section 463-5, Hawaii Revised Statutes, is amended to read as follows:

"§463-5 Private detectives, guards, and agencies; license required. No person shall engage in the business of private detective or guard, represent [himself] oneself to be, hold [himself] oneself out as, list [himself] oneself or advertise as a private detective or guard or as furnishing detective investigating services or guard services without first obtaining a license as a private detective or guard from the board of detectives and guards upon payment of a licensing fee of [\$25 [37.50]] \$37.50 a year and no corporation, partnership, or association shall engage in the business of private detective or guard, represent itself to be, hold itself out as, list itself or advertise as a private detective or guard agency or bureau or as furnishing detective, investigating, or guard services without first obtaining a license as a private detective or guard agency from the board upon payment of a licensing fee of [\$25 [37.50]] \$37.50 a year."

SECTION 3. Section 463-6, Hawaii Revised Statutes, is amended to read as follows:

“§463-6 Private detective; qualifications for license. The board of detectives and guards may grant a private detective license to [any suitable citizen of the United States and to] any suitable person, corporation, partnership, or association making written application therefor. The applicant, if an individual, or the principal detective of a corporation, shall [have been] be a resident of the State [for not less than one year immediately prior to the filing of application for license], shall be not less than twenty-two years of age, shall have a high school education or its equivalent, and shall have had experience reasonably equivalent to at least four years of full-time investigational work. The applicant shall disclose whether the applicant has received treatment for any psychiatric or psychological disorder, or whether such treatment has ever been recommended, and shall not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the applicant to engage in the profession, provided such sentence has not been annulled or expunged by court order. Any licensee may employ as many agents, operatives, and assistants as [he deems] necessary for the conduct of [his] business, provided such licensee, or the principal detective if a corporation is the employer, shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the licensee’s business. Employees shall have an eighth grade education or its equivalent. The employee shall disclose whether the employee has received treatment for any psychiatric or psychological disorder, or whether such treatment has ever been recommended, and shall not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the employee to engage in the profession, provided there has not been any order annulling or expunging the sentence.”

SECTION 4. Section 463-7, Hawaii Revised Statutes, is amended to read as follows:

“§463-7 Guard license required. No person, firm, partnership, or corporation shall engage in the business of guard for the purpose of protecting persons or property or to prevent theft or unlawful taking of goods, wares, merchandise, money, bonds, documents, or other articles of value for hire or reward or represent [himself or itself] oneself to be, or hold [itself] oneself out as such without first obtaining a license as a guard or guard agency from the board of detectives and guards upon payment of a licensing fee of [\$25 [37.50]] \$37.50 a year.”

SECTION 5. Section 463-8, Hawaii Revised Statutes, is amended to read:

“§463-8 Guard; qualifications for license. The board of detectives and guards may grant a guard or a guard agency license to [any suitable citizen of the United States and to] any suitable person, corporation, partnership, or association making written application therefor. The applicant, if an individual, or the principal guard in the case of a corporation, shall [have been] be a resident of the State [for not less than one year immediately prior to the filing of application for license], shall be not less than twenty-two years of age, shall have a high school education or its equivalent, and shall have had experience reasonably equivalent to at least four years of full-time guard work. The applicant shall disclose whether the applicant has received treatment for any psychiatric or psychological disorder, or whether such treatment has ever been recommended, and shall not have been convicted in

any jurisdiction of a crime which reflects unfavorably on the fitness of the applicant to engage in the profession, provided such sentence has not been annulled or expunged by court order. Any licensee may employ as many agents, operatives, and assistants as [he deems] necessary for the conduct of [his] business, provided such licensee, or the principal guard if the employer is a corporation, shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the licensee's business. Employees shall have an eighth grade education or its equivalent. The employee shall disclose whether the employee has received treatment for any psychiatric or psychological disorder, or whether such treatment has ever been recommended, and shall not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the employee to engage in the profession, provided there has not been any order annulling or expunging the sentence."

SECTION 6. Section 463-8.5, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~§463-8.5] Guards; concurrent employment. No person shall engage in the business of guard when the guard work is concurrent with other duties performed under the agreement of employment or when the guard work is not the principal fact of the employment without first obtaining a license as a guard."

SECTION 7. Section 463-9, Hawaii Revised Statutes, is amended to read as follows:

"§463-9 Form of application for license. Application for such license shall be made under oath on a form to be furnished by the board of detectives and guards which form may require a statement of the applicant's full name, age, date and place of birth, residence and business address, the business or occupation the applicant has engaged in for ten years immediately preceding the date of the filing of the application with names and addresses of employers, the date and place of any arrest or conviction of a crime [of a felony] where there has not been any order annulling or expunging the sentence or of any offense involving moral turpitude, whether the applicant has received treatment for any psychiatric or psychological disorder, or whether such treatment has ever been recommended, and such information, including fingerprints of the applicant and such other information as the board may require to investigate the character, competency, and integrity of the applicant. The board shall conduct such investigation of the applicant's background, character, competency, and integrity as it deems appropriate, and shall request criminal history records of the applicant from each jurisdiction in which the application form indicates the applicant lived for any substantial period of time. The police departments of the counties of this State shall provide such information on request to the board. The application shall be accompanied by affidavits of three reputable citizens of the State residing in the locality where the applicant proposes to conduct [his] business, stating that the applicant is a person of good moral character."

SECTION 8. Chapter 463, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§463-17 Provisions severable. If any provision of this chapter or the application thereof to any person or circumstance should be held invalid by any

court, the invalidity shall not affect the other provisions or applications of the section which can be given effect without the invalid provisions or applications, and to this end the provisions of this section are severable.”¹

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 10. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

Notes

1. Underscoring missing.
2. Edited pursuant to HRS §23G-16.5.

ACT 41

S.B. NO. 203

A Bill for an Act Relating to Public Assistance for Children.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-37.1, Hawaii Revised Statutes, is amended to read:

“[§346-37.1] Payment of public assistance for child constitutes debt to department by natural or adoptive parents. (a) Any payment of public assistance money made to or for the benefit of any dependent child or children creates a debt due and owing to the department by the natural or adoptive parent or parents who are responsible for support of such children in an amount equal to the amount of public assistance money so paid[,] or as established pursuant to subsection (b), except that debts under this section shall not be incurred by nor at any time be collected from a parent or other person who is the recipient of public assistance moneys for the benefit of minor dependent children for the period such person or persons are in such status, and, provided that where there has been a family court order, the debt shall be limited to the amount provided for by [said] the order.

(b) If there is no existing court order, the debt may be established by agreement of the parties or by order of the family court wherein the following criteria shall be considered:

- (1) All earnings, income, and resources of the absent parent or parents including real and personal property;
- (2) The earnings potential, reasonable necessities, and borrowing ability of the absent parent or parents;
- (3) The needs of the child for whom the support is sought;
- (4) The amount of assistance which would be paid to the child under the full standard of need as established by the department; and
- (5) The existence of other dependents.

These criteria shall be applied so as to ensure, at a minimum, that the child for whom support is sought benefits from the income and resources of the absent parent or parents on an equitable basis in comparison with any other minor child of the absent parent.”

ACT 42

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

ACT 42

S.B. NO. 247

A Bill for an Act Relating to Mortgage and Collection Servicing Agents.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 454D-3, Hawaii Revised Statutes, is amended to read as follows:

"**[~~§~~454D-3] Bond; letter of credit required.** (a) No person shall act, assume to act or advertise himself as a servicing agent, without having in effect a surety or cash bond previously obtained under and in compliance with this chapter, a copy of which shall be filed with the director of commerce and consumer affairs.¹ The amount of the bond required shall be \$25,000 until July 1, 1983, after which time the amount of the bond shall be \$50,000.

(b) The bond shall be obtained from an insurance company authorized to transact the business of a surety in this State, and shall be conditioned upon the full and faithful compliance with all requirements of this or any other statutes now in force or hereafter enacted with respect to the duties, conduct, obligations and liabilities of servicing agents. The bond shall run to the State to the benefit of any person who has received a court judgment against the servicing agent or an employee of the servicing agent; provided that the aggregate liability of the surety shall not exceed the sum of the bond. [In addition to any other remedy allowed by law, every person sustaining any damage resulting from a breach of the conditions of the bond may bring an action for the recovery under the bond of any damages sustained by such person.] The bond shall remain in full force and effect unless terminated or [cancelled] canceled by the surety, and shall by its terms provide that any such termination or cancellation shall not be effective unless written notice thereof is delivered by the surety to the director of commerce and consumer affairs¹ at least thirty days prior the date of termination or cancellation.

(c) The bond shall be furnished in addition to any other bond required by any other provision of law. The bond shall not preclude or preempt any additional bond that any principal of the servicing agent may, in the discretion of such principal, require of the servicing agent.

(d) Individual employees of any servicing agent need not themselves obtain a bond, provided that their employer's bond covers the acts of such employees.

(e) In lieu of the bond required by this section an irrevocable letter of credit in a form approved by the director of commerce and consumer affairs drawn upon a bank or savings and loan association in the amount of the bond as required by this section, may be substituted. The beneficiary of such letter of credit shall be the director of commerce and consumer affairs to the benefit of any person who has

received a court judgment against the servicing agent or an employee of the servicing agent; provided that the aggregate liability of the letter of credit shall not exceed the sum of it."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

Note

1. Prior to amendment, "regulatory agencies" instead of "commerce and consumer affairs".

ACT 43

S.B. NO. 366

A Bill for an Act Relating to the Commission on Transportation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-19, Hawaii Revised Statutes, is amended to read as follows:

"§26-19 Department of transportation. The department of transportation shall be headed by a single executive to be known as the director of transportation.

The department shall establish, maintain, and operate transportation facilities of the State, including highways, airports, harbors, and such other transportation facilities and activities as may be authorized by law.

The department shall develop and promote ridesharing programs which shall include but not be limited to, carpool and vanpool programs, and may assist organizations interested in promoting similar programs, and arrange for contracts with private organizations to manage and operate any such programs. Ridesharing programs include informal arrangements in which three or more persons ride together in a motor vehicle for four or more days a week to or from work or school.

The functions and authority heretofore exercised by the department of public works with respect to highways are transferred to the department of transportation established by this chapter.

On July 1, 1961, the Hawaii aeronautics commission, the board of harbor commissioners and the highway commission shall be abolished and their remaining functions, duties, and powers shall be transferred to the department of transportation.

Upon the abolishment of the Hawaii aeronautics commission, the board of harbor commissioners, and the highway commission, there shall be established within the department of transportation a commission to be known as the commission on transportation which shall sit in an advisory capacity to the director of transportation on matters within the jurisdiction of the department of transportation. [The commission on transportation shall consist of one member from each senatorial district and three members at large.] The commission on transportation shall consist of one member from each county having a population under 200,000, one member from each district of each county having a population of 200,000 or more,

and three members at large. The term "district" refers to the districts set forth under section 4-1."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

ACT 44

S.B. NO. 507

A Bill for an Act Relating to Wage and Hour Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 387-1, Hawaii Revised Statutes, is amended to read:

"§387-1 Definitions. As used in this chapter:

"Department" means the department of labor and industrial relations.

"Director" means the director of labor and industrial relations.

"Employ" includes to permit or suffer to work.

"Employer" includes any individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons, acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the State or any political subdivision thereof or the United States.

"Employee" includes any individual employed by an employer, but shall not include any individual employed:

- (1) At a guaranteed compensation totaling [\$700] \$1,000 or more a month, whether paid weekly, biweekly, or monthly;
- (2) In agriculture for any workweek in which the employer of the individual employs less than twenty employees or in agriculture for any workweek in which the individual is engaged in coffee harvesting;
- (3) In domestic service in or about the home of his employer or as a house parent in or about any home or shelter maintained for child welfare purposes by a charitable organization exempt from income tax under section 501 of the federal Internal Revenue Code;
- (4) By his brother, sister, brother-in-law, sister-in-law, son, daughter, spouse, parent, or parent-in-law;
- (5) In a bona fide executive, administrative, supervisory, or professional capacity or in the capacity of outside salesman[,] or as an outside collector;
- (6) In the propagating, catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal or vegetable life, including the going to and returning from work and the loading and unloading of such products prior to first processing;
- (7) As a seaman;
- (8) As a driver of a vehicle carrying passengers for hire operated solely on call from a fixed stand;

- (9) As a golf caddy;
- (10) By a nonprofit school during the time such individual is a student attending such school;
- (11) In any capacity if by reason of his employment in such capacity and during the term thereof the minimum wage which may be paid the employee or maximum hours which the employee may work during any workweek without the payment of overtime, are prescribed by the federal Fair Labor Standards Act of 1938, as amended, or as the same may be further amended from time to time; provided[,], that if the minimum wage which may be paid the employee under the Fair Labor Standards Act for any workweek is less than the minimum wage prescribed by section 387-2, then section 387-2 shall apply in respect to the employees for such workweek; provided further[,], that, if the maximum workweek established for the employee under the Fair Labor Standards Act for the purposes of overtime compensation is higher than the maximum workweek established under section 387-3, then section 387-3 shall apply in respect to such employee for such workweek; except that the employee's regular rate in such an event shall be his regular rate as determined under the Fair Labor Standards Act; [or]
- (12) As a seasonal youth camp staff member in a resident situation in a youth camp sponsored by charitable, religious, or non-profit organizations exempt from income tax under section 501 of the federal Internal Revenue Code or in a youth camp accredited by the American Camping Association[.]; or
- (13) As an automobile salesman primarily engaged in the selling of automobiles or trucks if employed by an automobile or truck dealer licensed under chapter 437.

"Industry" means a trade, business, industry, or branch thereof, or group of industries in which individuals are employed.

"Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than [\$20.00] \$20 a month in tips.

"Wage" means (except as the department may provide under section 387-11) legal tender of the United States or checks on banks convertible into cash on demand at full face value thereof and in addition thereto the reasonable cost as determined by the department, to the employer of furnishing an employee with board, lodging, or other facilities if such board, lodging, or other facilities are customarily furnished by such employer to his employees. Except for the purposes of the last sentence of section 387-2, "wage" shall not include tips or gratuities of any kind.

"Week" or "workweek" means a fixed and regularly recurring period of seven consecutive days.

"Agriculture" means agriculture as defined in section 3(f) of the Federal Fair Labor Standards Act of 1938, or as the same may be amended from time to time.

"Seasonal pursuit" means one in which it is customary in each year for the volume of employment in such pursuit to be substantially increased during a regularly recurring period or periods of seasonal activity, and in the remainder of the year, owing to climate or other natural conditions, for the volume of employment to

be substantially decreased. Periods of seasonal activity shall be considered as "regularly recurring", within the meaning of this paragraph, notwithstanding that such periods may vary from year to year."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on July 1, 1983.

(Approved May 18, 1983.)

ACT 45

S.B. NO. 525

A Bill for an Act Relating to Driver Licensing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-112, Hawaii Revised Statutes, is amended to read as follows:

"§286-112 Application of minors; liability of parents or guardian. (a) The application of any person under the age of eighteen years for an instruction permit or driver's license shall be signed and verified before a person authorized to administer oaths by [both the father and mother of the applicant, if both are living and have custody of him, or in the event that neither parent is living then by the person or guardian having such custody or by an employer of the minor, or in the event that there is no guardian or employer then by] the appropriate one of the following¹:

- (1) If both the father and mother of the applicant have custody of the applicant, by both the father and mother of the applicant; or
- (2) If only one parent has custody of the applicant, by the custodial parent;
or
- (3) If neither parent has custody of the applicant, and the applicant has a custodial guardian or has custodial guardians, by the custodial guardian or by all the custodial guardians; or
- (4) If neither parent has custody of the applicant, and the applicant has no custodial guardian, by an employer of the applicant or by any responsible person who is willing to assume the obligation imposed under this part upon a person signing the application of a minor.

(b) Any negligence or misconduct of a minor under the age of eighteen years when driving a motor vehicle upon a highway shall be imputed to the person who has signed the application of the minor for a permit or license, which person shall be jointly and severally liable with the minor for any damages caused by such negligence or misconduct [except as otherwise provided in the next succeeding paragraph].

[(c) If a minor deposits or there is deposited upon his behalf proof of financial responsibility in respect to the operation of a motor vehicle owned by him or if not the owner of a motor vehicle, then with respect to the operation of any motor vehicle, in form and in amounts as required under the motor vehicle financial

responsibility laws of this State, then the examiner of drivers may accept the application of the minor when signed by one parent or guardian of such minor.

(d)] (c) A nonresident minor shall be accorded all the privileges and be subjected to all the regulatory restrictions as are by this part provided for resident minors."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

Note

1. Underscoring missing.

ACT 46

S.B. NO. 741

A Bill for an Act Relating to County Vehicular Tax Refunds; Vehicles Removed from the State; Junked Vehicles; Vehicles brought into the State; Exemptions for Stored Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 249-3, Hawaii Revised Statutes, is amended to read as follows:

"§249-3 Tax for fraction of years, refunds; removal from State; junked vehicles; vehicles brought into the State. Whenever it is [made to appear] clear to the director of finance that any vehicle taxable under sections 249-1 to 249-13 has been acquired or has been removed from storage, where it was not used for transportation or for other purposes covered by section 249-2, subsequent to January 1 of the current year, by the person seeking to register the vehicle, and such vehicle is not subject to unpaid taxes for the same or any prior year under sections 249-1 to 249-13, the tax to be paid thereon shall be as provided under sections 249-1 to 249-13 less eight and one-third per cent of such tax for each full month of the then calendar year which shall have elapsed at the date the vehicle was acquired or removed from storage; provided[,]that in no case shall the tax assessed and collected for any vehicle hereunder be less than \$1; and provided further:

- (1) That any vehicle owned and brought into the State by any person shall be exempt from this chapter relative to the payment of taxes and display of number plates for twelve months or the remaining [period of the year] portion of the current registration period, whichever is less, for which the taxes have been paid on such vehicle by the owner thereof in compliance with the law of the state or country [of his residence,] in which the vehicle is licensed, and shall display on the vehicle the number plates for the current year required by the law of such state or country; and
- (2) That if any owner of a vehicle upon which has been paid the annual tax due and payable for the current [calendar] year as required by sections

249-1 to 249-13, intends to remove from the State such vehicle and not bring it back to the State during the same [calendar] year, or if he [permanently] junks the vehicle during the [calendar] year for which the annual tax as required has been paid, he shall, upon presenting to the director of finance a signed and sworn [certificate] affidavit stating, (A) [in the case of such intended removal from the State, such intention,] the intention to remove the vehicle from the State, the date of intended shipment of the vehicle, the name of the [steamer or] vessel by which the shipment is intended[,]; or (B) [in the case of junking, the fact of such junking,] the intention to junk a vehicle; together with such other relevant facts as may be required by the director of finance, and upon surrender of the current license plates and any other documents as may be required by the director of finance for such vehicle, become entitled to a refund of a portion of the tax, [computed at the rate of eight and one-third per cent of the annual tax for each integral month] prorated on the basis of months remaining in such [calendar] year (i) after the intended removal, or (ii) after the junking, or (iii) after the surrender of the license plates, whichever is the later. From the date of the surrender of the license plates [the vehicle], in the case of the intended removal, the vehicle shall, except for the purpose of driving the same to the place of embarkation, be deemed an unlicensed vehicle, and shall be permitted, should it be brought back to the State prior to the expiration of such [calendar] year, to be operated in the State only upon payment to the director of finance of the entire amount of tax refunded. No vehicle taxable under sections 249-1 to 249-13 shall be removed from the State [or be junked] unless the owner thereof has first paid the annual tax due and payable thereon for the current [calendar] year as required herein and has thereupon become entitled to a refund of a portion of the tax paid. The director of finance shall accept the junking of a vehicle not currently registered; provided that the owner of each such vehicle shall first present to the director of finance a signed and sworn affidavit stating the fact of such junking together with such other relevant facts as may be required by the director of finance and such owner shall surrender the last issued certificate of registration, certificate of ownership, and license plates for each such vehicle.

SECTION 2. Section 249-5, Hawaii Revised Statutes, is amended to read as follows:

"§249-5 Exemptions for stored vehicles; refunds. All vehicles[, otherwise] taxable under sections 249-1 to 249-13, which are stored so that they are not used for transportation, or for the other purposes covered by section 249-2, shall be exempt from the tax [herein required;] imposed under this chapter for the period of storage; provided[, that the owner of each such vehicle shall first present to the director of finance a signed and sworn [certificate] affidavit stating the fact of such storage, together with such other relevant facts as may be required by the director of finance and shall surrender the [current] last issued certificate of registration, license plates, and [tag] emblem for such vehicle [not later than December 31 of the current

year]. If the [certificate is] affidavit, certificate of registration, license plates, and emblem are presented to the director of finance after [December 31 of the year in which the vehicle is registered for license plates and tag, but before March 31 of the year immediately following, or after such March 31 for vehicles stored on or before such March 31, with the current tax thereon unpaid,] the expiration of the vehicle's registration period, then the unpaid tax for [three months of the current year] each month the license plates could have been validated with an emblem plus the fee for the currently issued license plates and emblem shall be paid in full upon presenting the [certificate.] affidavit. Should the [certificate] affidavit be presented to the director of finance after [March 31 of any year and after] payment of the current year's tax, then [one-fourth of the annual tax paid for the stored vehicle for each remaining full one-quarter of the] a portion of the tax, for each full month remaining in such current year shall be refunded upon [the filing of the certificate] completion of all storage requirements, but no refund shall be made for a period less than [a full one-quarter of a year] one month."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

ACT 47

S.B. NO. 749

A Bill for an Act Relating to Highway Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-122, Hawaii Revised Statutes, is amended to read as follows:

"§286-122 Suspension of a license; surrender. (a) Every person whose license or driving privilege has been suspended pursuant to this part or any traffic law or regulation of the State or any county, shall surrender his license to the examiner of drivers or the court, as is appropriate, which agency shall take custody of the license during the period of suspension.

(b) The examiner of drivers may suspend or revoke the license of any resident of this State or the privilege of a nonresident to drive a motor vehicle in this State upon receiving notice of the conviction of that person in another state, or within this State or another state by the federal government, of an offense therein which, if committed [in] within the jurisdiction of this State, would be grounds for the suspension or revocation of the driver's license or privilege.

The examiner of drivers may give the same effect to conduct of a resident in another state as is provided by the laws of this State had such conduct occurred in this State.

Any person whose license or driving privilege has been so suspended or revoked shall immediately return his license or permit to the examiner of drivers.

(c) Any resident or nonresident whose driver's license or privilege to operate a motor vehicle in this State has been suspended or revoked as provided in

this chapter shall not operate a motor vehicle in this State under a license or permit issued by any other jurisdiction or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this chapter."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

ACT 48

S.B. NO. 810

A Bill for an Act Relating to Industrial Loan Companies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 408-15, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) Other charges. In addition to the interest, discount, or other charges permitted by this section, an industrial loan company shall also have power to collect in advance or otherwise from the borrower any of the following charges:

- (1) The actual taxes and fees charged by a governmental agency for recording, filing, or entering of record, any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments, of or on any real or personal property which constitutes all or a portion of the security on a contract.
- (2) Appraisal fees, and abstractors' fees, or title insurance actually paid to third parties, no portion of which fees inures to the benefit of the company.
- (3) Premiums actually paid for insuring real and personal property pledged as security on a contract, and premiums for insurance on the life or disability or both of the borrower, provided the insurance is obtained from insurance companies authorized to do and doing business in the State under the laws thereof and provided the borrower, if the property is adequately insured for the amount of the loan, shall not be required to substitute other insurance therefor upon the property or to take out additional insurance thereon.
- (4) Attorney's fees, if provided for in the contract, and costs of court, incurred in the collection of any contract in default.
- (5) A charge not exceeding \$10 upon the transfer of any equity under a chattel mortgage or a conditional sale contract, or upon any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or upon any of such conveyances of any real or personal property which constitutes all or a portion of the security on a contract.

- (6) Loan fees or "points" on all loans primarily secured by an interest in real property where the interest rate is computed in accordance with subsection (j); provided that the total finance charge payable by the borrower in connection with any such loan shall include the amount of any such loan fees or "points" and, when the loan agreement is made, shall not exceed an annual percentage rate (as defined in the Federal Truth In Lending Act and the regulations of the Federal Reserve Board promulgated thereunder) equal to the maximum rate of interest permissible under subsection (j). Loan fees or "points" shall be fully earned on the date the loan is made and shall not be subject to refund upon prepayment of the loan.
- (7) Any reasonable attorneys' fees incurred for the preparation of any contract, or any promissory note or any obligation evidencing an indebtedness, or any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments of or on any real or personal property which constitutes all or a portion of security on a contract, or any other documents relating to a contract.
- (8) Actual charges for credit reports and other credit screening expenses incurred for loans of \$5,000 or more, provided that such charges shall not exceed \$15 per applicant and such charges are paid to third parties and no portion of such charges inures to the benefit of the company."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

ACT 49

S.B. NO. 907

A Bill for an Act Relating to Land Use.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to allow the land use commission to charge a reasonable fee for the filing of boundary amendment petitions and petitions for intervention to cover the cost of processing and for reproduction of maps and documents. The Act further seeks to provide a penalty for parties to boundary amendment proceedings who fail to appear at hearings without notice and reason.

SECTION 2. Chapter 205, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§205- Fees. The commission may establish reasonable fees for the filing of boundary amendment petitions and petitions for intervention to cover the cost of processing thereof and for the reproduction of maps and documents. The commission also may assess a reasonable fee or require reimbursements to be made for inexcusable absence of a party from a boundary amendment proceeding. Any fees collected shall be deposited to the credit of the general fund."¹

ACT 50

SECTION 3. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 50

S.B. NO. 1288

A Bill for an Act Relating to Boxing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 440, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"§440- Summary disciplinary action. The commission may fine, withhold purse money or fees, and issue immediate temporary suspensions of not more than sixty days against a licensee for violations of this chapter or commission rules. The commission shall notify the licensee in writing of any temporary suspension, fine, or withholding of purse money within five days of the commission's action. The licensee shall have a right to a hearing in accordance with chapter 91; provided that the licensee notifies the commission in writing of the request for a hearing within thirty days after the commission notifies the licensee in writing, by mail or by personal service, of the commission's order."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 51

S.B. NO. 1295

A Bill for an Act Relating to Service Corporations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 407-95, Hawaii Revised Statutes, is amended to read as follows:

1. Subsection (a) is amended to read as follows:

"(a) General service corporations. Subject to the provisions of this section, an association may, if permitted by the terms of its charter, invest in the capital stock, obligations, or other securities of any service corporation organized under the laws of this State if:

- (1) The entire capital stock of such service corporation is available for purchase by, and only by, any and all savings and loan associations in

this State, and the capital stock is owned by more than one savings and loan association;

- (2) Not more than [25 percent] twenty-five per cent of the outstanding capital stock of such service corporation is, or may be, owned by any savings and loan association;
- (3) Every eligible savings and loan association is permitted to own an equal amount of the capital stock of such service corporation, or on such uniform basis as may be fixed by such corporation, each such association is permitted to own an amount of capital stock that is a stated percentage of its assets or saving capital at the time of any purchase by it of such stock, but capital stock outstanding on December 31, 1968, may be disregarded in determining compliance with this requirement; and
- (4) [Substantially all of the activities of such service corporation consist of originating, purchasing, selling and servicing loans upon real estate and participating interests therein, and/or clerical, bookkeeping, accounting, statistical, or similar functions performed primarily for savings and loan associations, plus] The service corporation's activities, performed directly or through one or more wholly owned subsidiaries or joint ventures, consists of any activity permitted to service corporations of federally chartered savings and loan associations, and such other activities as the bank examiner may approve."

2. Subsection (b) is amended to read as follows:

"(b) Approved service corporations. A savings and loan association may form a service corporation or invest in the capital stock, obligations or other securities of a service corporation other than as set forth in subsection (a) only with the prior specific approval of the bank examiner. Each application for approval to invest in a service corporation pursuant to this subsection [(b)] shall contain a statement setting forth the need for such corporation, the services to be performed by the corporation, the names of all institutions participating in the formation of the corporation, the amount of capital stock investment by each such institution, and such other information as the bank examiner may require. A service corporation organized pursuant to this subsection may engage in any activities, performed directly or through one or more wholly owned subsidiaries or joint ventures, permitted to service corporations of federally chartered savings and loan associations and such other activities as the bank examiner may approve."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 633-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All district courts, except as otherwise provided, shall exercise jurisdiction conferred by this chapter, and while sitting in the exercise of that jurisdiction, shall be known and referred to as the small claims division of the district court; provided that the jurisdiction of the court when sitting as a small claims division of the district court shall be confined to:

- (1) Cases for the recovery of money only where the amount claimed does not exceed [\$1,000] \$2,500 exclusive of interest and costs, except as provided by section 633-30;
- (2) Cases involving disagreement between landlord and tenant about the security deposit in a residential landlord-tenant relationship; and
- (3) Cases for the return of leased or rented personal property worth [\$600] \$1,500 or less where the amount claimed owed for such lease or rental does not exceed [\$1,000] \$2,500 exclusive of interest and costs.

This chapter shall not abridge or affect the jurisdiction of the district courts under paragraphs (1) and (3) to determine cases under the ordinary procedures of the court, it being optional with the parties to such cases to elect the procedure of the small claims division of the district court or the ordinary procedures, as provided by rule of court. In cases arising under paragraph (2) the jurisdiction of the small claims division of the district court shall be exclusive.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 469-1, Hawaii Revised Statutes, is amended to read:

“**§469-1 License.** The department of health may, upon payment to it of an examination fee [of \$25], examine, or cause to be examined by not less than two practicing embalmers, undertakers, or funeral directors, any person over eighteen years of age, of good moral character, [resident at least one year in the State,] and with qualifications specified in one of the following categories:

- (1) A minimum of five years practical experience under the supervision of a registered embalmer or undertaker in the State.
- (2) A minimum of two years practical experience under the supervision of a registered embalmer or undertaker in the State and completion of a four-year high school course or equivalent educational training.

- (3) Not less than one year of practical experience and graduation from a recognized school of embalming.
- (4) Holder of a state license for embalming.

All examinations shall be conducted in writing and supplemented by practical demonstrations and shall be upon such subjects as the department may by [regulation] rule prescribe. Every person who passes the examination shall be given a license as an embalmer."

SECTION 2. Section 469-2, Hawaii Revised Statutes, is amended to read:

"§469-2 Rules [and regulations]. The department of health may prescribe such rules [and regulations] as it deems reasonable and proper relating to the practice of embalming, to the business of an undertaker, or to the sanitary condition of places where such business or practice is conducted. The rules [and regulations] of the department [shall] may prescribe an original registration fee [of \$50] for the engaging by any person in the business of an undertaker[,] and an annual renewal fee [of \$10]."

SECTION 3. Section 469-3, Hawaii Revised Statutes, is amended to read:

"§469-3 Renewal of license. Each licensed embalmer or licensed undertaker or funeral director shall, between July 1 and 10 of each year, renew his license by registering with the department of health[,] and by paying a renewal fee [of \$10]. Every license that is not so renewed shall expire on August 1 and shall not be renewed except upon the payment of [\$25.] a delinquent fee."

SECTION 4. Section 469-4, Hawaii Revised Statutes, is amended to read:

"§469-4 Registration of apprentices. Any person at least eighteen years of age, of good moral character, may qualify as an apprentice under a regularly licensed embalmer. He shall register with the department of health, and, upon the payment of a fee [of \$5], a certificate of apprenticeship shall be issued him.

On or between July 1 and 10 of each year, he shall renew his certificate of registration and pay a renewal fee [of \$1]. If the renewal fee is not paid within thirty days from the date due, a penalty fee [of \$5] for delinquency attaches and becomes a part of the total fee due the [board] department of health for such renewal. The applicant shall also file an affidavit of three citizens who have known him during the past two years, certifying to his moral character."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect September 1, 1983.

(Approved May 18, 1983.)

ACT 54

H.B. NO. 273

A Bill for an Act Relating to the Subpoena Powers of the Director of the Department of Commerce and Consumer Affairs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (i) to read:

“(i) In the course of an investigation of matters affecting the interest of consumers, depositors, or investors or of any other matter within the jurisdiction of the department, the director shall have the power to subpoena witnesses, examine them under oath, and require the production of books, papers, documents, or objects which the director deems relevant or material to the inquiry. [Under] Upon application by the director, obedience to the subpoena may be enforced by the circuit court in the county where the person subpoenaed resides or is found in the same manner as a subpoena issued by the clerk of a circuit court.

The director shall appoint and commission one or more investigators to serve subpoenas as the exigencies of the public service may require. Subpoenas served by persons appointed and commissioned by the director shall have the same force and effect as subpoenas served by police officers or deputy sheriffs. Nothing in this subsection shall be construed to entitle persons commissioned and appointed by the director to retirement benefits applicable to police officers under chapter 88. [This subsection is repealed effective July 1, 1983.¹]

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

Note

1. Parentheses missing.

ACT 55

H.B. NO. 288

A Bill for an Act Relating to Chiropractic.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 442-2, Hawaii Revised Statutes, is amended to read:

“**§442-2 License to practice.** It shall be unlawful for any person to practice chiropractic without a license [so to do]. Any person [wishing to obtain] applying for a license to practice chiropractic shall [make] submit an application to the board of chiropractic examiners [thirty] sixty days prior to the examination [dates upon such form and in such manner as may be provided by the board]. [Each] The application shall be accompanied by an examination fee of \$50 and such documents and affidavits as are prescribed by law. [Each] The application shall be [made] submitted in accordance with the rules of the board of chiropractic examiners and shall be signed and verified under oath by the applicant, and in addition thereto each applicant shall furnish to the board of examiners:

- (1) Satisfactory proof that he is a citizen of the United States;
- (2) Satisfactory proof that he has been a resident of the State for at least one year;
- (3) Affidavits of good moral character;

- (4) (1) An unretouched, unmounted[, 3" x 4" bust size] photograph taken within sixty days next preceding the date of the application;
- [(5) An 8" x 10" photostatic copy of his diploma from a high school or, proof satisfactory to the board, of educational equivalent in training power to a high school course;
- (6) (2) [An 8" x 10"] A photostatic copy of [his] the diploma from a chiropractic college or school;
- [(7) (3) After March 1, 1958, satisfactory proof that [he] the applicant has completed two years of liberal arts [and/]or science study at a university or college; provided that the foregoing requirement shall not be applicable to applicants having entered an approved chiropractic college on or before October 31, 1955.

Except in the cases herein otherwise prescribed each applicant shall be a graduate of an incorporated chiropractic school or college recognized and approved by the board, which teaches a course of not less than forty-two hundred, fifty minute hours, of which six hundred hours shall have been spent in practical work in a chiropractic college clinic under recognized instructors.

The course shall extend over a period of four school terms of at least nine months each, and each applicant shall give satisfactory proof of having attended not less than ninety per cent of such forty-two hundred hours and of having satisfactorily passed the following subjects; anatomy and histology, physiology, bacteriology, hygiene and sanitation, pathology, chiropractic diagnosis or analysis, chiropractic orthopedy, gynecology and obstetrics, symptomatology, chemistry and elementary toxicology, chiropractic analysis and the principles and practice of chiropractic, and technique."

SECTION 2. Section 442-4, Hawaii Revised Statutes, is amended to read:

"§442-4 **Election of officers; quorum; records; report.** The board of chiropractic examiners shall elect a president [,] and a vice-president[, and secretary] from the members of the board. Elections of officers shall occur annually at the January meeting of the board. A majority of the board shall constitute a quorum.

The affirmative vote of a majority of the board is required to carry any motion or resolution, to adopt any rule, or to issue any license provided for in this chapter. The executive secretary shall keep a record of the proceedings of the board, which shall at all times during business hours be open to the public for inspection. [He shall keep a true and accurate account of all funds received and of all expenditures incurred or authorized by the board, and shall deposit all funds received with the director of finance as government realizations, and on December 1 of each year he shall file with the governor through the director of regulatory agencies a report of all receipts and disbursements and of the proceedings of the board for the preceding fiscal year.]"

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

A Bill for an Act Relating to the Board of Electricians and Plumbers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

"§26H-4 [[NEW]] Repeal dates. (a) The following chapters are hereby repealed effective December 31, 1983:

- (1) Chapter 444 (Contractors License Board)
- [(2)] Chapter 448E (Board of Electricians and Plumbers)
- (3) [(2)] Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- [(4)] [(3)] Chapter 466 (Board of Public Accountancy)
- [(5)] [(4)] Chapter 467 (Real Estate Commission)
- [(6)] [(5)] Chapter 448H (Elevator Mechanics Licensing Board)

(b) The following chapters are hereby repealed effective December 31, 1984:

- (1) Chapter 436D (Board of Acupuncture)
- (2) Chapter 442 (Board of Chiropractic Examiners)
- (3) Chapter 448 (Board of Dental Examiners)
- (4) Chapter 453 (Board of Medical Examiners)
- (5) Chapter 457 (Board of Nursing)
- (6) Chapter 447 [(Board)] (Dental Hygienists)
- (c) The following chapters are hereby repealed effective December 31,

1985:

- (1) Chapter 460 (Board of Osteopathic Examiners)
- (2) Chapter 461 (Board of Pharmacy)
- (3) Chapter 455 (Board of Examiners in Naturopathy)
- (4) Chapter 463E (Podiatry)
- (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (d) The following chapters are hereby repealed effective December 31,

1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 438 (Board of Barbers)
- (6) Chapter 439 (Board of Cosmetology)
- (e) The following chapters are hereby repealed effective December 31,

1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)

- 1988: (6) Chapter 463 (Board of Detectives and Guards)
 (f) The following chapters are hereby repealed effective December 31,

- (1) Chapter 465 (Board of Certification for Practicing Psychologists)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)[.]
- (g) The following chapter is hereby repealed effective December 31, 1989:
- (1) Chapter 448E (Board of Electricians and Plumbers)."

SECTION 2. Section 448E-1, Hawaii Revised Statutes, is amended to read as follows:

"§448E-1 Definitions. As used in this chapter, unless otherwise indicated by the context:

- (1) "Board" means the board of electricians and plumbers.
- (2) "Journeyman electrician" means any person who has been licensed by the board as a journeyman electrician to perform electrical work.
- (3) "Journeyman plumber" means any person who has been licensed by the board as a journeyman plumber to direct and supervise the performance of plumbing work and to perform plumbing work.
- (4) "Journeyman specialty electrician" means any person who has been licensed by the board as a journeyman specialty electrician to perform electrical work related to installing, repairing, altering, and maintaining but not the attachment of lighting and power circuits to, the following: electronic equipment, sound public address systems, and communication systems, other than equipment and systems for a single-family or two-family dwelling; master or community radio and television receiving antenna systems; sound recording systems, other than systems for a single-family or two-family dwelling; burglar and fire alarm systems; low voltage remote control, other than a control for a single-family or two-family dwelling; and low voltage communication signal systems.
- (5) "Master plumber" means any person who has been licensed by the board as a master plumber to direct and supervise the performance of plumbing work and to perform plumbing work and who provides overall supervision and general direction and is responsible for proper installation of plumbing work.
- [(6)] "Motion picture operator" means any person who has been licensed by the board for the purpose of operating a movie projector using 16 mm, 35 mm film or larger or video tape solely for commercial theater purposes.
- (7)] (6) "Supervising electrician" means any person who has been licensed by the board as a supervising electrician to direct and supervise the performance of electrical work and to perform electrical work.

- [(8)] (7) "Supervising specialty electrician" means any person who has been licensed by the board as a supervising specialty electrician to direct and supervise the performance of electrical work related to installing, repairing, altering, and maintaining, but not the attachment of lighting and power circuits, to the following: electronic equipment, sound public address systems, other than equipment and systems for a single-family or two-family dwelling; master or community radio and television receiving antenna system; sound recording systems other than systems for a single-family or a two-family dwelling; burglar and fire alarm systems; low voltage remote control, other than control for a single-family or two-family dwelling; and low voltage communication signal systems.
- [(9)] (8) "Maintenance electrician" means any person who has been licensed by the board as a maintenance electrician to maintain electrical work.
- [(10)] (9) "Journeyman industrial electrician" means any person who has been licensed by the board as a journeyman industrial electrician to perform and maintain electrical work related to substation, switchgear, automatic controls, and all other industrial electrical work in existing industrial buildings and work places.
- [(11)] (10) "Supervising industrial electrician" means any person who has been licensed by the board as a supervising industrial electrician to direct and supervise electrical work related to substation, switchgear, automatic controls, and all other industrial electrical work in existing industrial buildings and work places."

SECTION 3. Section 448E-4, Hawaii Revised Statutes, is amended to read as follows:

"§448E-4 Powers and duties of board. The board shall have all the powers and duties necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, without limitation, the following powers and duties:

- (1) To grant licenses which shall be renewable on a biennial basis to:
 - (A) Journeyman electricians,
 - (B) Journeyman specialty electricians,
 - (C) Supervising electricians,
 - (D) Supervising specialty electricians,
 - [(E)] Motion picture operators,
 - (F)] (E) Master plumbers,
 - [(G)] (F) Journeyman plumbers,
 - [(H)] (G) Maintenance electricians,
 - [(I)] (H) Journeyman industrial electricians, and
 - [(J)] (I) Supervising industrial electricians;
- (2) To make, amend, or repeal such rules as it may deem proper to effectuate this chapter and to insure the safety and welfare of the general public. All such rules shall be adopted pursuant to chapter 91.

The rules may forbid acts or practices deemed by the board to be detrimental to the accomplishment of the purpose of this chapter;

- (3) To enforce this chapter and rules adopted pursuant thereto including the denial, suspension, or revocation of any license; and
- (4) To examine all applicants and determine their qualifications prior to the issuance of licenses."

SECTION 4. Section 448E-5, Hawaii Revised Statutes, is amended to read as follows:

"§448E-5 Minimum requirements. An applicant shall possess the following minimum qualifications:

- (1) Journeyman electrician. Every applicant to be eligible for the journeyman electrician examination shall be at least eighteen years of age and [must] shall provide satisfactory evidence of experience in residential or commercial wiring of at least four years full-time or its equivalent, but not less than 8,000 hours as a journeyman or supervising electrician's helper.
- (2) Journeyman specialty electrician. Every applicant to be eligible for the journeyman specialty electrician examination shall be at least eighteen years of age and [must] shall have had at least four years' experience in the trade.
- (3) Supervising electrician. Every applicant to be eligible for the supervising electrician examination shall have been registered with the board as a journeyman electrician for at least a period of two years in the trade or shall have had equivalent experience in the trade.
- (4) Supervising specialty electrician. Every applicant to be eligible for the supervising specialty electrician examination shall have been registered with the board as a journeyman specialty electrician for at least a period of two years in the trade or shall have had equivalent experience in the trade.
- [(5)] Motion picture operator. Every applicant to be eligible for the motion picture operator examination shall be not less than eighteen years of age and shall have had not less than one year of experience under supervision of a registered motion picture operator in the operation of machines for the projection of motion pictures for commercial purposes in the trade.
- (6)] (5) Journeyman plumber. Every applicant to be eligible for the journeyman plumber examination shall have had experience of at least five years' full-time or its equivalent but not less than 10,000 hours as a journeyman's or master plumber's helper, and is able to furnish satisfactory evidence of such fact.
- [(7)] (6) Master plumber. Every applicant to be eligible for the master plumber examination shall have been registered with the board as a journeyman plumber for at least two years or shall have had equivalent experience in the trade.

- [(8)] (7) Maintenance electrician. Every applicant to be eligible for the maintenance electrician examination shall be not less than eighteen years of age.
- [(9)] (8) Journeyman industrial electrician. Every applicant to be eligible for the journeyman industrial electrician examination shall be at least eighteen years of age and [must] shall have had experience in industrial electrical work of at least four years full-time or its equivalent, but not less than 8,000 hours.
- [(10)] (9) Supervising industrial electrician. Every applicant to be eligible for the supervising industrial electrician examination shall have been registered with the board as a journeyman industrial electrician for a period of at least two years or shall have had equivalent experience in the trade."

SECTION 5. Section 448E-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No person shall act or assume to act as a journeyman electrician, journeyman specialty electrician, supervising electrician, supervising specialty electrician, [motion picture operator,] journeyman plumber, master plumber, maintenance electrician, journeyman industrial electrician, or supervising industrial electrician without a license previously obtained in compliance with this chapter and the rules of the board; provided that any person may perform emergency plumbing repair work in his principal place of residence when such repairs do not involve or require rearrangement of valves, pipes, or fixtures; provided further that no such emergency repairs may be performed on sewer lines, drains, gas lines, and on fixtures being served with backflow devices which includes heaters, water closets, dishwashers, and garbage disposal units."

SECTION 6. Section 448E-11, Hawaii Revised Statutes, is amended to read as follows:

"§448E-11 Injunction. The board may, in addition to any other remedy available, apply to a circuit court judge for a temporary restraining order or preliminary or permanent injunction restraining any person from acting, or assuming to act, as a journeyman electrician, journeyman specialty electrician, supervising electrician, supervising specialty electrician, maintenance electrician, journeyman industrial electrician, supervising industrial electrician, [motion picture operator,] journeyman plumber, or master plumber without a license previously obtained in compliance with this chapter and the rules of the board, and upon hearing and for cause shown, the judge may grant the temporary restraining order or preliminary or permanent injunction."

SECTION 7. Section 448E-14, Hawaii Revised Statutes, is amended to read as follows:

"§448E-14 County licenses. Any individual holding a current and valid electrician[, or plumber[, or motion picture operator's] license under an ordinance of any county of the State prior to January 1, 1972 may continue to practice his trade, and his license shall not be revoked, except for cause; provided that upon the renewal date of any licensee's county license, he shall make application to the board

created by this chapter to renew his license; and provided further[,] that any individual or licensee holding a county license shall be subject to the jurisdiction of the board after January 1, 1972."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

ACT 57

H.B. NO. 1582

A Bill for an Act Relating to the Collection of Child Support.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"§346- **Collection of child support.** In order to carry out its responsibilities imposed under this chapter, the department, through the offices of the corporation counsel or the county attorneys, may commence or appear in any proceeding before any court or administrative agency for the purpose of establishing paternity for children born out of wedlock, or for the purpose of obtaining, enforcing, or modifying an order of support on behalf of any dependent or any other person for whom the department has a duty to obtain or enforce an order of support under this chapter. The department may commence or appear in any action on its own behalf or on behalf of any dependent child, parent of any dependent child, or on behalf of any other person for whom the department has a duty to obtain or enforce an order of support under this chapter."

SECTION 2. New material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 18, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 58

S.B. NO. 89

A Bill for an Act Relating to the State Immigrant Services Center.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 202-9, Hawaii Revised Statutes, is amended to read:

"§202-9 **State immigrant services center.** (a) There shall be a state immigrant services center within the office of the governor. The governor shall appoint a director of the state immigrant services center and the director may employ such other personnel as the director deems advisable. The director and other personnel shall be exempt from chapters 76 and 77.

- (b) At the direction of the governor, the director shall:
- (1) Assist and coordinate the efforts of public and private agencies in providing services to immigrants and non-English speaking residents;
 - (2) Provide information on the varied services available in Hawaii and refer the immigrants to appropriate agencies;
 - (3) Provide counseling, programs for acculturation, [program,] outreach services,¹ and other support services necessary for immigrants to become economically productive and socially adjusted;
 - (4) Encourage local and ethnic groups and community organizations to develop programs for immigrants and their families;
 - (5) Compile information concerning immigrants and conduct or contract for studies on problems faced by them;
 - (6) Gather and develop information to aid the prospective immigrant and his sponsor in complying with U.S. [Immigration] immigration and related laws, and to develop a suitable orientation program for the immigrant upon reaching Hawaii;
 - (7) Serve as liaison on immigration matters of broad community concern, as well as individual problems of immigrants;
 - (8) Make recommendations to the administration, the legislature, and community organizations for improving services to immigrants;
 - (9) Review and comment upon grant proposals for immigrant service agencies requesting funding from state and federal sources; [and]
 - (10) Assist and coordinate efforts in helping refugees in Hawaii to become adjusted and productive members of American society [.]; and
 - (11) Contract for such services as may be necessary for the purposes of this section."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1983.)

Note

1. Underscoring missing.

ACT 59

S.B. NO. 134

A Bill for an Act Relating to Exclusion of Stock from Forest Reservations, Game Management Areas and Public Hunting Areas.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 183-19, Hawaii Revised Statutes, is amended to read:

"§183-19 Exclusion of stock from forest reservations[;], game management areas, and public hunting areas; notice. When branded wild cattle are found on any forest land, game management area, or public hunting area in the State, which land is duly set apart and established as a forest reservation, game management area, or public hunting area, or if the land is privately owned and

surrendered as defined in section 183-15, the department, in all cases where the land is so set apart and established as a forest reservation, game management area, or public hunting area, whether from privately owned lands or public lands, may remove, shoot, or destroy the cattle without compensation to the owner, after thirty days' public notice¹ and three insertions of the intended action has been given by publication in a newspaper of general circulation in the county where the cattle are found."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1983.)

Note

1. Comma missing.

ACT 60

S.B. NO. 502

A Bill for an Act Relating to State Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 39-8, Hawaii Revised Statutes, is amended to read as follows:

"§39-8 Form and execution of bonds. Bonds issued under this part shall be in such form as the director of finance may determine, and shall be lithographed or steel engraved[,]. All such bonds shall be manually signed by the director of finance[,] or deputy director of finance, shall bear a lithographed or engraved facsimile of the signature of the comptroller of the State, and shall be sealed with the seal or a lithographed or engraved facsimile of the seal of the department of budget and finance of the State[; provided, however, that]. In addition, fully registered bonds may be authenticated with the manual signature of the registrar, if any, thereunto duly appointed by the director of finance. Notwithstanding the preceding provisions of this section, the director of finance, with the approval of the governor, may provide that bonds issued under this part may be typewritten, printed, or otherwise reproduced, and that the signature of the comptroller upon such bonds may be his manual signature. Interest coupons shall bear a lithographed or engraved facsimile of the signature of the director of finance. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the director of finance may decide upon may be issued to the purchaser or purchasers of bonds sold pursuant to this part."

SECTION 2. Section 39-9, Hawaii Revised Statutes, is amended to read as follows:

"§39-9 Same, signatures. When bonds of the State are prepared and signed by the director of finance or deputy director of finance of the State and by the comptroller of the State in office at the time of such signing, the signatures of such director or deputy director and comptroller shall be valid and sufficient for all

purposes, and shall have the same effect as if the persons so officially signing such bonds had remained in office until the delivery of the same to the initial purchasers [although] thereof, and in the case of fully registered bonds upon any exchange or transfer between subsequent holders thereof, notwithstanding that the term of office of such persons or [either] any of them may have expired or they may otherwise have ceased to be such officers before such delivery[.], exchange, or transfer. If the director of finance shall have designated a registrar for fully registered bonds, the director of finance may provide that no such fully registered bond shall be valid or obligatory for any purpose unless certified or authenticated by such registrar. If the director of finance shall have provided for a registrar as aforesaid, then such fully registered bond shall be valid and sufficient only if so certified or authenticated by the manual signature of an authorized officer of such registrar. Anything to the contrary notwithstanding, if blanks of fully registered bonds shall be held by a registrar pending exchange or transfer for other fully registered bonds of the same series, then upon delivery of bonds in an exchange or transfer, such bonds shall be valid and sufficient for all purposes notwithstanding that the signature of the comptroller and the director of finance or deputy director of finance appearing thereon shall be that of the person in office at the time of initial delivery of the bonds or that of the person in office at the time of such exchange or transfer."

SECTION 3. Section 39-31, Hawaii Revised Statutes, is amended to read as follows:

"§39-31 Duplicates. Whenever it appears to the director of finance of the State by clear proof satisfactory to him that any interest bearing bond of the State has, without bad faith upon the part of the owner, been lost, stolen, destroyed, wholly or in part, or so defaced as to impair its value to the owner; the bond is identified by number and description[.]; and the request for issuance of a new bond was made before the director had notice that the bond had been acquired by a bona-fide purchaser[.]; the director [shall], under such conditions and upon such security as prescribed in section 39-33, shall cause to be issued a duplicate thereof, with remaining unpaid coupons, if any, attached and so marked as to show the original number of the bond lost, stolen, destroyed, or defaced and the date thereof[.]; provided that in the case of fully registered bonds such duplicate may be numbered in such manner as the registrar deems proper.

All duplicate bonds in coupon form issued in place of bonds lost, stolen, destroyed, or defaced shall be lithographed or steel engraved[.], unless otherwise provided in the proceedings authorizing the issuance thereof, and shall [be signed by] bear the manual signatures of the director or duly authorized deputy director of finance of the State[, and [by] the comptroller of the State, and [be sealed with] an impression of the seal of the department of budget and finance[.] shall be affixed thereon. Interest coupons shall bear a lithographed or engraved facsimile of the signature of the director of finance of the State. Each signature of an officer on a duplicate coupon bond shall be the signature of the person serving as such officer on the date of signing and any duplicate coupon bond so executed and sealed shall be valid and sufficient for all purposes. All duplicate bonds in fully registered form issued in place of bonds lost, stolen, destroyed, or defaced shall be from the stock of fully registered bonds of such series then held by the registrar for such series and

shall be executed, sealed, and authenticated in the same manner as fully registered bonds of such series. Any duplicate fully registered bond executed, sealed, and authenticated as provided in this section shall be valid and sufficient for all purposes.

When the lost, stolen, destroyed, or defaced bond appears to have been of a class or series that has been called or will be called in for redemption or will mature within a period of one year following the date of application for a duplicate bond, instead of issuing a duplicate bond therefor, the director [may], under such conditions and upon such security, if any, as he may prescribe, may pay the bond at its call date with interest if it is already called for redemption or if it is to be called for redemption, or will mature within the period of one year, issue a transferable certificate of ownership to the applicant, and pay on the certificate the call price of the bond represented thereby together with interest called for by the lost, stolen, destroyed, or defaced bond on the date of its call or its original maturity upon surrender of the certificate of ownership. All transferable certificates of ownership which may be issued pursuant to the terms hereof shall be in such form as the director may prescribe and shall be signed by the director or duly authorized deputy director and by the comptroller of the State and [sealed with] an impression of the seal of the department of budget and finance[.] shall be affixed thereto.

All expenses necessary for the providing of any duplicate bond, coupon, or both, as the case may be, or certificate of ownership shall be borne by the owner thereof[.] and such expenses shall be paid at the time the request for replacement is filed."

SECTION 4. Section 39-33, Hawaii Revised Statutes, is amended to read as follows:

"§39-33 Method of issuance and payment. [An applicant] A claimant for issuance of a new bond or for payment shall make written application, under oath, in such form as the director of finance of the State shall prescribe, stating facts definitely identifying the bonds or coupons and showing the loss, destruction, or theft of the same, and the ownership of the same by the person applying, and shall present such further evidence as the director may reasonably require to establish the identity of the bonds or coupons, their loss, destruction, defacement, or theft, and the ownership of the same by the [applicant.] claimant.

[The director, if he is satisfied that the person is the legal holder of the bonds or coupons, that the same have been lost, destroyed, defaced, or stolen, and that the same has not been acquired by a bona-fide purchaser, shall thereupon, except as hereinafter provided, issue a new bond or pay to the applicant the amount of the lost, destroyed, defaced, or stolen bonds or coupons, the payments to be made out of the general fund of the State by warrant of the comptroller of the State; provided, that no such issuance or payment shall be made until and unless (1) at least six months shall have elapsed after the date of application during which time the bonds or coupons shall not have been presented and paid to a holder in due course thereof; and (2) the applicant shall have executed and delivered to the director a legal and sufficient bond in the amount of twice the aggregate sum called for by the lost, destroyed, defaced, or stolen bonds or coupons, in such form and with such sufficient surety or sureties as shall be satisfactory to the director, conditioned to

indemnify and save harmless the State from any loss on account of the bonds or coupons so claimed to have been lost, destroyed, defaced, or stolen.]

The director of finance shall not provide for the issuance of a replacement for or the payment of the lost, stolen, destroyed, or defaced bond, coupon, or both, as the case may be, unless the claimant shall have executed and delivered to the director a legal and sufficient surety bond in an amount equal to the loss which may be suffered by the State, any transfer agent, paying agent, or bond registrar by reason of issuing replacements or making payments mentioned in this section. Any such surety bond shall be in such form and with such sufficient surety or sureties as shall be satisfactory to the director of finance, and shall be conditioned to indemnify and save harmless the State, any transfer agent, paying agent, or bond registrar from any and all loss on account of the bond, coupon, or both, as the case may be, so claimed to have been lost, stolen, destroyed, or defaced. The duration of the surety bond shall be not less than the date upon which the bond, coupon, or both, as the case may be, being replaced or paid, become due and payable, plus the period of the statute of limitations applicable to bonds and coupons. In the case of a partially destroyed or defaced bond, coupon, or both, as the case may be, the claimant shall surrender such partially destroyed or defaced bond, coupon, or both, as the case may be, at the time of delivery of the replacement therefor."

SECTION 5. Section 39-56, Hawaii Revised Statutes, is amended to read as follows:

"§39-56 Validity of revenue bonds. The revenue bonds bearing the signature of officers in office on the date of the signing thereof shall be valid [and binding obligations, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the State or of the department.] and sufficient for all purposes, and shall have the same effect as if the persons so officially signing such bonds had remained in office until the delivery of the bonds to the initial purchasers thereof, and in the case of fully registered bonds upon any exchange or transfer between subsequent holders thereof notwithstanding that the term of office of such persons or any of them may have expired or they may otherwise have ceased to be such officers before such delivery, exchange, or transfer. If the director of finance shall have designated a registrar for fully registered bonds, the certificate or resolution authorizing such bonds may provide that no such fully registered bond shall be valid or obligatory for any purpose unless certified or authenticated by such registrar. If such certificate or resolution so provides, then such fully registered bond shall be valid and sufficient only if so certified or authenticated by the manual signature of an authorized officer of such registrar. Anything to the contrary notwithstanding, if blanks of fully registered bonds shall be held by a registrar pending exchange or transfer for other fully registered bonds of the same series, then upon delivery of bonds in an exchange or transfer, such bonds shall be valid and sufficient for all purposes, notwithstanding that the signatures of the officers of the State appearing thereon shall be that of the persons in office at the time of initial delivery of the bonds or that of the persons in office at the time of such exchange or transfer. The validity of the revenue bonds shall not be dependent on [nor] or affected by the validity or regularity of any proceedings relating to the acquisition, purchase,

construction, reconstruction, improvement, betterment, or extension of the undertaking or establishment or administration of the loan program authorized by law for which the revenue bonds are issued. The resolution or certificate authorizing the revenue bonds may provide that the revenue bonds shall contain a recital that they are issued pursuant to this part, which recital shall be conclusive evidence of their validity and of the regularity of their issuance."

SECTION 6. Section 39-64, Hawaii Revised Statutes, is amended to read as follows:

"§39-64 Execution of revenue bonds. [Revenue bonds issued pursuant to this part shall be executed by the head of the department or a deputy director designated by him and sealed with the seal of the department or in lieu thereof shall bear a lithographed or engraved facsimile of such seal. Further, they shall be countersigned by the state director of finance or in lieu thereof shall bear a lithographed or engraved facsimile of the signature of the director.] Revenue bonds issued under this part shall be in such form as the head of the department may determine, shall be lithographed or engraved, shall be manually signed by the head of the department or a deputy director designated by the director, shall be countersigned with a lithographed or engraved facsimile of the signature of the state director of finance, and shall be sealed with the seal or a lithographed or engraved facsimile of the seal of the department. In addition, fully registered bonds may be authenticated with the manual signature of the registrar, if any, thereunto duly appointed by the director of finance. Notwithstanding the preceding provisions of this section, the head of the department or a deputy director designated by the director, with the approval of the governor, may provide that revenue bonds issued under this part may be typewritten, printed, or otherwise reproduced, and that the signature of the director of finance upon such bonds may be the director's manual signature. The coupons pertaining to the bonds shall be executed with the lithographed or engraved facsimile signatures of the head of the department and the director of finance. In the case of a department having a governing body, the member thereof who is the chairman or other titular head [shall], for the purposes hereof, shall be the head of the department. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the head of the department may decide upon may be issued to the purchaser or purchasers of bonds sold pursuant to this part."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 19, 1983.)

SECTION 1. Section 207-11, Hawaii Revised Statutes, is amended by amending the definition of "foreign lender" to read as follows:

"(2) "Foreign lender" means (A) [a member bank of the Federal Reserve System, an "insured bank" as defined in the Federal Deposit Insurance Act, an "insured institution," as defined in the Federal Savings and Loan Insurance Corporation Act, a federally chartered savings and loan association,] "a depository institution" as defined in section 501 (a) (2) of the federal Depository Institutions Deregulation and Monetary Control Act of 1980, a "real estate investment trust" as defined in the Internal Revenue Code, [or] an insurance company, the principal office of which is in another state, whether incorporated or unincorporated and whether acting in its individual capacity or in a fiduciary capacity, (B) the trustee or trustees from time to time in office of any employee benefit plan, [and] (C) [any corporation all of the capital stock of which (except directors' qualifying shares) is owned by one or more foreign lenders of the classes specified in clauses (A) and (B) of this paragraph] a lender approved by the Secretary of the United States Department of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act, (D) any corporation of which all of the capital stock (except the directors' qualifying shares) is owned by one or more foreign lenders specified in (A), (B), and (C), and (E) any corporation of which all of the capital stock (except for the directors' qualifying shares) is owned by one or more foreign lenders specified in (D), but the term "foreign lender" does not include any small loan or industrial loan company of the general character covered by chapters 408 and 409."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1983.)

A Bill for an Act Relating to Fishing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 188-25, Hawaii Revised Statutes, is amended to read as follows:

"§188-25 Fishing with firearms, spears. (a) It is unlawful for any person to pursue, take, or kill any turtle, crustacean, mollusk, aquatic mammal, or fish other than sharks in the waters of the State with firearms as defined in section 134-1 or to pursue, take, or kill any crustacean (except introduced freshwater prawns), turtle, or aquatic mammal with a spear.

[(b) After December 31, 1983, it is unlawful for any person to sell or offer to sell any fish other than sharks, u'u, uhu, and kumu taken or killed with a spear;

provided that fish may be lawfully taken or killed with a spear for home consumption only.

(c)] (b) Any crustacean, mollusk, aquatic mammal, or fish taken or killed or offered for sale in violation of this section shall be confiscated and offered as evidence. For the purpose of this section, "spear-gun" means any artificial device used to propel a spear or spears by means of compressed air or gas, elastic, spring, or any motive power.

[(d)] (c) It is unlawful for any person to take any fish by the use of spears, or have in his possession any speared fish which is smaller than the minimum size for the fish as specified in section 188-40 and any person violating this provision for the first time shall receive a citation. Any subsequent violation shall be punished as provided in section 188-70; provided that the first such subsequent violation shall be considered a first violation for the purpose of section 188-70."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1983.)

ACT 63

S.B. NO. 915

A Bill for an Act Relating to Commencing Prosecution.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 701-108, Hawaii Revised Statutes, is amended by amending subsection (5) to read as follows:

"(5) A prosecution is commenced either when an indictment is found or [an information] a complaint filed, or when an arrest warrant or other process is issued, provided that such warrant or process is executed without unreasonable delay."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1983.)

ACT 64

S.B. NO. 1175

A Bill for an Act Relating to Counties.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 47-8, Hawaii Revised Statutes, is amended to read as follows:

"**§47-8 Form and execution of bonds.** (a) All bonds issued under [the provisions of] this chapter shall be lithographed or steel engraved, shall [be signed

by] bear the manual signature of the director of finance or the deputy director of finance of the county and shall bear the manual or lithographed or engraved facsimile signature of the mayor of the county and, in the case of fully registered bonds, may be authenticated with the manual signature of the registrar, if any, thereunto duly appointed by the governing body or the director of finance, as the case may be and shall be sealed with the seal or lithographed or engraved facsimile seal of the county[.]; provided that the governing body may authorize the director of finance to provide that bonds issued under this chapter may be typewritten, printed, or otherwise reproduced. Interest coupons shall bear a lithographed or engraved facsimile of the signature of the director of finance or the deputy director of finance of the county.

(b) When bonds of the county are prepared and signed by the director of finance or the deputy director of finance in office at the time of such signing and by the mayor in office at the time of [the] such signing or such lithographing or engraving of a facsimile of his signature upon the bonds, the signatures of such director or deputy director and mayor shall be valid and sufficient for all purposes, and shall have the same effect as if the persons so officially signing the bonds or whose facsimile signature appears thereon had remained in office until the delivery of the same to the initial purchasers[, although] thereof, and in the case of fully registered bonds, upon any exchange or transfer between subsequent holders thereof notwithstanding the term of office of such persons or either of them may have expired or they may otherwise have ceased to be such officers before such delivery[.], exchange, or transfer; provided that if the governing body or director of finance has designated a registrar for fully registered bonds, the governing body or director of finance may provide that no such fully registered bond shall be valid or obligatory for any purpose unless certified or authenticated by such registrar, and if so provided, then such fully registered bond shall be valid and sufficient only if so certified or authenticated by the manual signature of an authorized officer of such registrar. Any law to the contrary notwithstanding, if blanks of fully registered bonds are held by a registrar pending exchange or transfer for other fully registered bonds of the same series, upon delivery in an exchange or transfer such bonds shall also be valid and sufficient for all purposes whether the signature of the director of finance or the mayor appearing thereon shall be that of the person in office at the time of initial delivery of the series of bonds of which such bond is one or at the time of such exchange or transfer.

(c) Notwithstanding the foregoing provisions of this section, any bonds authorized pursuant to this chapter deposited by the director of finance with and pledged to, or otherwise disposed of to any board, agency, or instrumentality of the State or of the United States government to secure the repayment of or an actual payment of, any loans or advances made or to be made, under the authority of an act or acts of the legislature of Hawaii or of the Congress of the United States authorizing the loans or advances by the board, agency, or instrumentality to the county or any bond anticipation notes issued pursuant to section 47-2.2 may be typewritten and all signatures thereon may be manual signatures."

SECTION 2. Section 47-32, Hawaii Revised Statutes, is amended to read as follows:

“§47-32 Redemption, notice by advertisement. (a) Whenever the sum on deposit to the credit of the sinking fund is sufficient, the director of finance may redeem one or more bonds[;] or portions of bonds in the case of fully registered bonds; provided[,] that prior to the redemption, in the case of bonds not registered as to principal or principal and interest, he shall advertise in a newspaper of general circulation published in the county, and in other places where interest payments upon the bonds are made, not less than once a week for three successive weeks, [that he] and in the case of bonds registered as to principal or principal and interest, mail or direct the registrar to mail, postage prepaid, not less than twenty-one days, to the registered owners of bonds which are to be redeemed in whole or in part at their last address appearing upon the registration books, a notice that the county is prepared to pay the bonds, together with all interest accrued thereon, giving the numbers, issue, date, date of payment, the date interest will cease, and such further information as may be required by the terms of the bond or any law of the State. If the bonds so sought to be redeemed as aforesaid are not presented for payment or redemption on or before the payment date specified in the [advertisement,] notice, the amount due thereon shall be held exclusively for the payment of the bonds whenever presented. All redemptions shall be made as provided by law and no notice of redemption shall be required other than that by publication or mailing as hereinabove provided.

(b) Bonds redeemed in the manner [above] provided in subsection (a) may be held alive in the treasury of the county until the due date for payment, or at the option of the county may be paid and canceled. If part of an issue of bonds is redeemed or refunded and the bonds are paid and canceled, payments shall continue to be made into the sinking fund for the issue of bonds to provide for the payment of the principal of or interest on bonds of the issue remaining outstanding, unpaid, and uncanceled, but no further payments shall be required to be made into the sinking fund with respect to the bonds of the issue which have been paid and canceled.”

SECTION 3. Section 47-42, Hawaii Revised Statutes, is amended to read as follows:

“§47-42 Issuance of duplicate. (a) When the director of finance is satisfied that the bond, coupon, or both, as the case may be, is in fact lost, stolen, destroyed, or defaced and that the claimant is the legal and beneficial owner of such bond, coupon, or both, as the case may be, and that if lost or stolen, such bond, coupon, or both, as the case may be, has not been acquired by a bona fide purchaser, he may thereupon, except as provided in sections 47-43 and 47-44, cause to be issued a duplicate thereof, such duplicate to be so marked as to adequately identify it as such to the county, any transfer agent, paying agent, or bond registrar.

(b) A duplicate bond in coupon form issued in place of a bond lost, stolen, destroyed, or defaced shall be lithographed or steel engraved[,] unless otherwise provided in the proceedings authorizing the issuance thereof, and shall [be signed by] bear the manual signature of the director or duly authorized deputy director of finance [and] of the county, shall bear the manual or lithographed or engraved facsimile signature of the mayor of the county, and shall be sealed with the seal or the lithographed or engraved facsimile seal of the county. Any duplicate coupon issued in place of any lost, stolen, destroyed, or defaced coupon appertaining to an

interest bearing bond of such county shall bear a lithographed or engraved facsimile of the signature of the director of finance[.] or deputy director of finance. When a duplicate of the bond being replaced bears the manual or facsimile signature of the mayor and bears the manual signature of the director or deputy director of finance in office at the time of issuance of such duplicate bond [and when a duplicate of the bond being replaced is signed by], or any coupon being replaced bears the facsimile signature of the director of finance in office at the time of issuance of such [bond or] coupon, the signatures of such mayor and director or deputy director shall be valid and sufficient and shall have the same effect as that of the persons originally signing the bond or whose facsimile signature appears on such bond, coupon, or both, as the case may be.

(c) All duplicate bonds in fully registered form issued in place of bonds lost, stolen, destroyed, or defaced shall be from the stock of fully registered bonds of such series then held by the registrar for such series and shall be executed, sealed, and authenticated in the same manner as fully registered bonds of such series, and any duplicate fully registered bond so executed, sealed, and authenticated shall be valid and sufficient for all purposes."

SECTION 4. Section 47-45, Hawaii Revised Statutes, is amended to read as follows:

"§47-45 Condition of replacement or payment. The director of finance shall not provide for the issuance of a replacement for or the payment of the lost, stolen, destroyed, or defaced bond, coupon, or both, as the case may be, unless the claimant shall have executed and delivered to him a legal and sufficient surety bond in an amount equal to the loss which may be suffered by the [obligee] county, any transfer agent, paying agent, or bond registrar by reason of issuing replacements or making payments mentioned herein[, and]. Any such surety bond shall be in such form and with such sufficient surety or sureties as shall be satisfactory to [him,] the director of finance, and shall be conditioned to indemnify and save harmless the county, any transfer agent, paying agent, or bond registrar from any and all loss on account of the bond, coupon, or both, as the case may be, so claimed to have been lost, stolen, destroyed, or defaced. The duration of the surety bond shall be not less than the date upon which the bond, coupon, or both, as the case may be, being replaced or paid become due and payable, plus the period of the statute of limitations applicable to bonds and coupons. In the case of a partially destroyed or defaced bond, coupon, or both, as the case may be, the [applicant] claimant shall surrender such partially destroyed or defaced bond, coupon, or both, as the case may be, at the time of delivery of the replacement therefor.

All expenses necessary for the providing of any duplicate bond, coupon, or both, as the case may be, or any transferable certificate shall be borne by the claimant thereof, and such expenses shall be paid at the time the request for replacement is filed."

SECTION 5. Section 47C-2, Hawaii Revised Statutes, is amended to read as follows:

"§47C-2 Determination of funded debt. Within ninety days after the [last] first day of each fiscal year, the director of finance of each county shall

ascertain and set forth in a tabular summary the total indebtedness of the county outstanding and unpaid as of the [last] first day of such fiscal year. The summary shall include the following:

- (1) An itemization of the total principal amount of all general obligation bonds, reimbursable general obligation bonds, revenue bonds, special assessment bonds, special purpose revenue bonds, and all other bonds of the county outstanding and unpaid, including bonds which may be excluded under clauses 1, 2, 3, 4, 5, 6, 8, and 9 of section 13 of Article VII of the Constitution when determining the funded debt of the county for the purposes of that section together with a grand total of such total principal amounts.
- (2) The total principal amount of all bonds of the State required by clause 7 of section 13 of Article VII of the Constitution to be included when determining the funded debt of the county for the purposes of that section.
- (3) A grand total of the total principal amounts set forth in the summary pursuant to paragraphs (1) and (2) [of this section].
- (4) An itemization of the total of the principal amount of all general obligation bonds, reimbursable general obligation bonds, revenue bonds, special assessment bonds, and special purpose revenue bonds of the county outstanding and unpaid which may be excluded under clauses 1, 2, 3, 4, 5, 6, 8, and 9 of section 13 of Article VII of the Constitution when determining the total funded debt of the county for the purposes of that section, together with a grand total of such total principal amounts.
- (5) The difference between the grand total principal amount set forth in the summary pursuant to paragraph (3) [of this section] and the grand total principal amount set forth in the summary pursuant to paragraph (4) [of this section].

The director of finance shall also prepare and attach to the tabular summary such supporting schedules as may be required to set forth in detail the bonds included in the itemizations required by paragraphs (1) and (4) [of this section]. Such supporting schedules shall also set forth or make reference to the relevant statutory, charter, ordinance, or other legal provision, and the relevant figures of assessment collections, revenues, user tax receipts, cost of operation, maintenance and repair, net revenues, net user tax receipts, reimbursements to the general fund, and other financial information, justifying the inclusion of such bonds in the itemization required by paragraph (4) [of this section]. The director of finance shall indicate in the supporting schedules whether the financial findings and figures are based upon the records of his office or upon audited statements and reports, and if based upon the latter, shall identify in the schedules the audited reports and statements.”

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 19, 1983.)

A Bill for an Act Relating to Vital Statistics.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 338-17.7, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) The director of health shall establish a new birth certificate for a person born in this State upon receipt of a certified copy of a court determination of paternity together with a request from [the natural mother] the parent or person having legal custody of the child that such new certificate be prepared. [The surname of the child shall be that of the mother unless the decree or request provided otherwise.]”

SECTION 2. Section 338-21, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) All children born out of wedlock, irrespective of the marriage of either parent to another, become legitimate (1) on the marriage of the parents with each other, (2) on the voluntary, written acknowledgment of paternity by the father and mother, or (3) on establishment of the parent and child relationship under chapter 584, and are entitled to the same rights as those born in wedlock and shall take the surname so stipulated by their parents or, if the parents do not agree on the surname, shall take the surname [of the father.] specified by a court of competent jurisdiction to be the surname that is in the best interests of the child. If legitimation is accomplished before the original certificate of birth is filed with the department of health, the original certificate of birth shall contain the name so stipulated. The child or children or the parents thereof may petition the department of health to issue a new certificate of birth in the new name of the legitimated child, and the department shall issue the new certificate of birth upon being satisfied that the child or children has or have been legitimated.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act, upon its approval, shall take effect retroactive to May 28, 1980.

(Approved May 19, 1983.)

A Bill for an Act Relating to Visitation and Support.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“§346- **Visitation, custody, and support when public assistance paid.** Whenever public assistance is paid to or for the benefit of any dependent child, the existence or enforcement of a duty of support owed by a noncustodial parent to such

child shall not be affected by a failure or refusal by the custodial parent to implement any right as to custody or visitation granted by a court to the noncustodial parent."

SECTION 2. New material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 67

H.B. NO. 329

A Bill for an Act Relating to Tax Incentives for Solar Energy Devices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 235-12, Hawaii Revised Statutes, is amended to read:

"§235-12 Solar or wind energy devices and heat pumps; income tax credit. (a) Each individual and corporate resident taxpayer who files an individual or corporate net income tax return for a taxable year, may claim a tax credit under this section against the Hawaii State individual or corporate net income tax. The tax credit may be claimed for any solar or wind energy device or heat pump in an amount not to exceed ten per cent of the total cost of the device or heat pump; provided that after May 29, 1980, the tax credit shall apply only to the actual cost of the solar or wind energy device or the heat pump, their accessories, and installation and shall not include the cost of consumer incentive premiums unrelated to the operation of the solar or wind energy device or the heat pump offered with the sale of the solar or wind energy device or the heat pump. The credit shall be claimed against net income tax liability for the year in which the solar or wind energy device or the heat pump was purchased and placed in use; provided the tax credit shall be applicable only with respect to solar devices which are erected and placed in service after December 31, 1974 but before December 31, 1985; provided further that in the case of wind energy devices and heat pumps, the tax credit shall be applicable only with respect to wind energy devices and heat pumps which are installed and placed in service after December 31, 1980 but before December 31, 1985. Tax credits which exceed the taxpayer's income tax liability may be used as a credit against his income tax liability in subsequent years until exhausted.

(b) The director of taxation shall prepare such forms as may be necessary to claim a credit under this section. He may also require the taxpayer to furnish reasonable information in order that he may ascertain the validity of the claim for credit made under this section and he may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91.

(c) As used in this section "solar or wind energy device" means any new identifiable facility, equipment, apparatus, or the like which makes use of solar or wind energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for their generation. "Heat pump" means and refers to an

electric powered compression heating system which utilizes warm ambient air or heated gas to assist in the production of hot water [in home water heaters]."

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act, upon approval, shall apply to taxable years beginning after December 31, 1982.

(Approved May 19, 1983.)

ACT 68

H.B. NO. 453

A Bill for an Act Relating to Robbery.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 708-840, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of robbery in the first degree if, in the course of committing theft:

- (a) He attempts to kill another, or intentionally inflicts or attempts to inflict serious bodily injury upon another; or
- (b) He is armed with a dangerous instrument and:
 - (i) He uses force against the person of [the owner or any person] anyone present with intent to overcome [the owner's] that person's physical resistance or physical power of resistance; or
 - (ii) He threatens the imminent use of force against the person of anyone who is present with intent to compel acquiescence to the taking of or escaping with the property."

SECTION 2. Section 708-841, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of robbery in the second degree if, in the course of committing theft:

- (a) He uses force against the person of [the owner or any person] anyone present with the intent to overcome [the owner's] that person's physical resistance or physical power of resistance; or
- (b) He threatens the imminent use of force against the person of anyone who is present with intent to compel acquiescence to the taking of or escaping with the property; or
- (c) He recklessly inflicts serious bodily injury upon another."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 19, 1983.)

ACT 69

H.B. NO. 830

A Bill for an Act Relating to Penal Responsibility and Fitness.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 704, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§704- Supervision of person on conditional release. (a) Any person hospitalized under this chapter who is subsequently placed on conditional release shall be subject to the supervision of a probation officer until such time as that supervision is terminated by order of the court.

(b) The probation officer shall report from time to time as the court may order, as to whether the conditionally released person is complying with the conditions of the release."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 70

S.B. NO. 117

A Bill for an Act Relating to the National Guard.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 121-30, Hawaii Revised Statutes, is amended to read:

"§121-30 Order to active service. In case of war, insurrection, invasion, riot, or imminent danger thereof, or any forcible obstruction to the execution of the laws, or reasonable apprehension thereof, or for assistance to civil authorities in disaster relief or civil defense, the governor may order the national guard or other component of the militia or any part thereof into active service. The governor or the governor's designated representative also may order the national guard into active service in non-emergency situations for duty and training in addition to the drill and instruction required by section 121-28."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 71

S.B. NO. 182

A Bill for an Act Relating to the Board of Dispensing Opticians.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 458-3, Hawaii Revised Statutes, is amended to read:

"§458-3 Organization; meetings, records. The board of dispensing opticians shall annually elect from its members a president, secretary, and treasurer. The board shall keep a complete record of its proceedings[, and shall present annually to the governor through the director of regulatory agencies a detailed statement of its receipts and disbursements during the preceding year with a statement of its acts and proceedings and such recommendations as the board may deem proper]. The board, subject to chapter 91 and with the approval of the governor and the director of [regulatory agencies] commerce and consumer affairs may make, amend, and repeal rules [and regulations] for the administration of this chapter."

SECTION 2. Section 458-12, Hawaii Revised Statutes, is amended to read:

"§458-12 Fees. All fees received by the board of dispensing opticians shall be deposited by the director of [regulatory agencies] commerce and consumer affairs with the director of finance to the credit of the general fund."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 72

S.B. NO. 255

A Bill for an Act Relating to Firearms Brought into the State.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 134-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every person arriving in the State who brings with him or by any other manner causes to be brought into the State firearms of any description, whether usable or unusable, serviceable or unserviceable, modern or antique, or ammunition of any type and description, shall within forty-eight hours after arrival[, of the person or of the firearm, whichever arrives later, register the same with the chief of police of the county of such person's place of business, or if there be no place of business, such person's residence, or if there be neither place of business nor residence, such person's place of sojourn provided that[, no alien shall be allowed to bring any firearm into the State."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 73

S.B. NO. 492

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 606-13, Hawaii Revised Statutes, is amended to read:

"§606-13 Salary and [prerequisites] perquisites of reporters. Each reporter shall receive for his services as prescribed in section 606-12 the salary that may be appropriated from time to time as compensation for his services in court. He may also charge for his services a fee not to exceed \$1.50 per twenty-five line page for the original ribbon copy of transcripts of testimony and proceedings and 60 cents per twenty-five line page for each carbon copy thereof made at the same time when such transcripts are prepared in their regular order for the purposes of appeal to the supreme court and a [50] fifty per cent additional fee for expedited service when transcripts are prepared during the course of a trial. The fees for transcripts ordered by a party [must] shall be paid by the party ordering the same and, except in the case of the attorney general, the public defender, or the county or prosecuting attorneys or corporation counsels, no reporter shall be required to perform any such service until his fees have been paid or the amount of the estimated cost of the fees deposited with the clerk of the court.

Where the court, of its own motion, orders a transcript to be prepared of the whole or any part of the testimony in a civil cause, it may, in its discretion, direct the payment of the charges therefor, and the taxation of the same as costs, in such manner as to it may seem just. Where the attorney general, the public defender, or [a] the county or prosecuting attorney or corporation counsel, desires transcripts for his own official use, either original or carbon copy, the reporter may be paid for the same by warrant upon the treasury of the State[,] or county, as the case may be.

When a transcript is prepared from a tape, or other record of the testimony and proceedings made by a mechanical device, the transcript fees shall be those applicable when a transcript is prepared by an official court reporter from his notes. A transcript not prepared by an official court reporter shall be certified by a clerk of the court.

The reporter or other person preparing transcripts shall provide, at his own expense, all typewriting paper and carbon paper necessary to the preparation thereof."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 74

S.B. NO. 519

A Bill for an Act Relating to the Department of Social Services and Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-14, Hawaii Revised Statutes, is amended to read:

"§26-14 Department of social services and housing. The department of social services and housing shall be headed by a single executive to be known as the director of social services.

There shall be within the department of social services and housing a commission to be known as the board of social services which shall sit in an advisory capacity to the director of social services on matters within the jurisdiction of the department of social services and housing. The board shall consist of [the following] ten members, one from each [senatorial district] county, other than the county of Kalawao, and [three] five at large, and the director of health as an ex officio nonvoting member.

There shall also be within the department a commission to be known as the board of vocational rehabilitation which shall sit in an advisory capacity to the head of that division charged with the administration of vocational rehabilitation laws and allied services. The board shall consist of eleven members, one from each judicial circuit and four at large, with the directors of health and labor, and the superintendent of education, as ex officio voting members.

The department shall administer programs designed to improve the social well-being and productivity of the people of the State. Without limit to the generality of the foregoing, the department shall concern itself with the problems of human behavior, adjustment, and daily living through the administration of programs of family, child and adult welfare, economic assistance (including costs of medical care), rehabilitation toward self-care and support, delinquency prevention and control, treatment and rehabilitation of adult and juvenile offenders, public housing, and other related programs as provided by law.

The Hawaii housing authority, as now constituted by chapter 356 shall be a constituent corporate unit of the department of social services and housing with the director of social services as an additional commissioner, ex officio, of the housing authority, serving for a term consistent with his appointment. Notwithstanding any other provisions of this chapter, but subject to the administrative control of the director of social services, the functions, duties, and powers of the housing authority, as heretofore provided by law, shall be vested in the Hawaii housing authority.

The Hawaii paroling authority is placed within the department of social services and housing for administrative purposes only.

The functions and authority heretofore exercised by the department of public welfare, the department of institutions (except for Waimano home and the state hospital transferred to the department of health), the boards of prison inspectors, the bureau of sight conservation and work with the blind (except for the transcription services program transferred to the department of education), the council on veterans' affairs, and any other agency of the state or county governments with respect to the assistance and care of the indigent and medically indigent as heretofore constituted are transferred to the department of social services and housing established by this chapter."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 75

S.B. NO. 650

A Bill for an Act Relating to Poultry.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that an opinion by the Attorney General dated October 9, 1979 states that "Those sections of Chapter 148, relating to poultry labeling; specifically, HRS Sections 148-12 and 148-13, are preempted by federal legislation and, therefore, are invalid." The remaining sections of Chapter 148, Part II, Hawaii Revised Statutes, are for the purposes of enforcing these preempted sections and are, therefore, of no substance.

SECTION 2. Chapter 148, Part II, Hawaii Revised Statutes, is repealed.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 76

S.B. NO. 760

A Bill for an Act Relating to Coastal Zone Management.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1 Section 205A-33, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~205A-33] **Injunctions.** Any person or agency violating any provision of this chapter may be enjoined by the circuit court of the State by mandatory or restraining order necessary or proper to effectuate the purposes of this chapter in a suit brought by the authority or the lead agency."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 77

S.B.NO.839

A Bill for an Act Relating to the Employees' Retirement System of the State of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Findings and purpose.** The purpose of this Act is to extend the effective date of the amendment to paragraph (1) of section 88-74, Hawaii Revised Statutes, effected by Act 165, Session Laws of Hawaii 1982, from July 1, 1982 to January 1, 1983.

The staff of the Employees' Retirement System of the State of Hawaii ("ERS") failed to implement the Act 165 amendment to paragraph (1) of section 88-74, Hawaii Revised Statutes, until on or about December 31, 1982. Prior to

December 31, 1982 and after the July 1, 1982 effective date of Act 165, the ERS calculated retirement benefits for persons covered by paragraph (1) of section 88-74 pursuant to the practice followed prior to the Act 165 amendment. ERS is aware of three individuals who retired during the period between July 1, 1982 and December 31, 1982, whose benefits were calculated erroneously pursuant to the pre-Act 165 law. Under Act 165 the three individuals' retirement benefits would be significantly reduced. In reliance upon the erroneous retirement benefit information given to them by ERS, the three individuals terminated their employment and retired. The ERS Board of Trustees feels that it has a moral obligation to permit such persons to continue to receive the retirement benefits erroneously calculated by ERS, and, importantly, thereby avoid costs of litigation and the State's potential exposure to liability.

SECTION 2. Act 165, Session Laws of Hawaii 1982, is amended by amending section 6 to read:

"SECTION 6. This Act shall take effect on July 1, 1982[.], except that the amendment to paragraph (1) of section 88-74 by section 2(14) of this Act shall take effect on January 1, 1983."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 78

S.B.NO. 1092

A Bill for an Act Relating to the Attorney General.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Purpose.** The purposes of this Act are to: (1) consolidate the functions of the bureau of crime statistics and civil identification with the functions of the Hawaii criminal justice data center; and (2) expand the purpose of the Hawaii criminal justice data center.

SECTION 2. Chapter 28, Hawaii Revised Statutes, parts III and IV are repealed.

SECTION 3. Chapter 846, Hawaii Revised Statutes, is amended as follows:

1. By amending the title to read:

**"[CRIMINAL HISTORY RECORD INFORMATION]
HAWAII CRIMINAL JUSTICE DATA CENTER"**

2. By designating sections 846-1 to 846-16 as "Part I. Data Center".

3. By amending section 846-1, by amending the definitions of "criminal history record information system" or "system" and "data center" to read:

"(2) "Criminal history record information system" or "system" means a system, including the equipment, facilities, procedures, agreements,

and organizations thereof, for the collection, processing, preservation, or dissemination of [criminal history record information;] intrastate, interstate, and national criminal justice data;

- (10) "Data center" means the [State] state agency responsible for the collection, storage, dissemination, and analysis of all pertinent criminal [history record information] justice data and related functions, including but not limited to, functioning as the state repository for criminal history records, providing technical assistance in the development of information systems, and conducting appropriate research and statistical studies."

4. By amending section 846-2 to read:

"§846-2 Establishment of the data center. There shall be a data center [which shall be attached to the judiciary for administrative purposes until July 1, 1981, at which time the data center shall be attached to] established in the department of the attorney general [for administrative purposes]. The data center shall be directed and managed [by an interim director to be appointed by the governor until July 1, 1981, and thereafter,] by a director appointed by the attorney general without regard to chapters 76 and 77. There shall also be a committee, appointed by the attorney general, composed of selected criminal justice user-agency personnel, to act in an advisory capacity to the data center in matters related to interagency coordination and user needs."

5. By amending section 846-2.5 to read:

"§846-2.5 Purpose of the criminal justice data center. (a) The Hawaii criminal justice data center, hereinafter referred to as the "data center", shall be responsible for the collection, storage, dissemination, and analysis of all pertinent criminal [history record information] justice data from all criminal justice agencies [and to provide for], including, the collection, storage, and dissemination of criminal history record information by criminal justice agencies in such a manner as to balance the right of the public and press to be informed, the right of privacy of individual citizens, and the necessity for law enforcement agencies to utilize the tools needed to prevent crimes and detect criminals in support of the right of the public to be free from crime and the fear of crime.

[(b) In order to accomplish this purpose, the data center shall publish periodic reports which shall provide the public with a clear view of the criminal justice systems.]

(b) The attorney general shall select and enforce systems of identification of all persons arrested or charged with a criminal offense and provide for the recording and compilation of statistics related to crime. The attorney general shall establish systems of identification and provide for the collection of data and statistics relating to crime.

The several counties shall provide the necessary equipment and the compensation of the persons required to install and carry out the work of such systems of identification and statistics in their respective jurisdictions; provided that all such expenses in connection with prison matters exclusively within the control of the State shall be borne by the State.

The systems shall be uniform throughout the State, shall be continuous in operation, and shall be maintained as far as possible in such manner as shall be in keeping with the most approved and modern methods of identification and of the collection and compilation of the statistics.

The attorney general shall keep a uniform record of the work of the courts, prosecuting officers, the police, and other agencies or officers for the prevention or detection of crime and the enforcement of law in a form suitable (1) for the study of the cause and prevention of crime and delinquency and of the efforts made and efficacy thereof to detect or prevent crime and to apprehend and punish violators of law and (2) for the examination of the records of the operations of such officers and the results thereof.

(c) The attorney general may prescribe, establish, and change forms to be followed in keeping records and in making reports to the data center. All courts and the judges and other officers thereof and all prosecuting officers, chiefs of police, and other agencies and officers for the prevention or detection of crime and for the enforcement of law shall use such forms, keep such records, and make such reports to the data center as may be so required.

(d) In order to accomplish this purpose, the data center shall develop systems and provide the structure that support criminal justice information systems, provide statistical research and data analysis, and make public periodic reports which shall provide the public with a clear view of the criminal justice systems."

6. By adding a new Part II to read:

"PART II. CIVIL IDENTIFICATION

§846-21 Authority of attorney general. The attorney general shall carry out this part. In conformity with chapter 76, the attorney general may appoint such subordinates, at such compensation, within the limits of available appropriations therefor and in conformity with chapter 77, or without compensation, as may be necessary or proper to carry out this part, and, the attorney general may delegate to such subordinates such of the attorney general's powers and duties as may be necessary for the efficient administration of this part.

§846-22 Oaths and investigations. The attorney general and each of the attorney general's authorized subordinates may administer oaths and require and take the oral or written statements under oath of any person in connection with any information validly required by the attorney general or the attorney general's subordinates under this part or any rule issued under this part.

§846-23 Rules. For the purpose of carrying out this part the attorney general, subject to chapter 91, may prescribe rules having the force and effect of law.

§846-24 Powers and functions. The department of the attorney general shall register and issue certificates of identification to all persons in the State applying for the certificates in accordance with the requirements of this part.

§846-25 Other government employees to cooperate. With the approval of the head of the department concerned, any officer or employee of any county or of the State may be appointed in the manner provided by section 846-21 to act in such capacity and to perform such duties as shall be required by such order in

connection with the administration of this part, with or without additional compensation.

§846-26 Geographical subdivisions; regional and other officers. The attorney general may subdivide the State into such enumeration tracts or other subdivisions with such designations, and with such regional officers, registrars, assistants, enumerators, and other employees, as the attorney general deems necessary or proper for the efficient administration of the registration required by this part.

§846-27 Registration and issuance of certificates; fee. Every person residing or present in the State may be registered, and have issued to the person a certificate of identification, under this part.

Application for the registration shall be made in person by any adult person or minor over the age of sixteen years. In the case of a minor under the age of sixteen years, the application shall be made in the minor's behalf by the parent or other person in loco parentis of such minor. In the case of an incompetent person, the application shall be made by the person having the custody or control of or maintaining the incompetent person. A fee of \$6 shall be paid by each applicant, which fee, however, may be waived by the attorney general in cases of extreme hardship.

§846-28 Information to be secured. The department of the attorney general shall require, collect, secure, make, and preserve a written record of the following items of information so far as it is practicable to secure the same, with respect to each applicant for registration:

- (1) The name of the person applying to be registered (hereinafter called the "registrant" or "applicant"), the street and number or address of the applicant's place of habitation in the State, and the applicant's residence and business telephone numbers, if any;
- (2) Whether the applicant has ever been fingerprinted and, if so, where, when, and why;
- (3) The applicant's occupation and any pertinent data relating thereto;
- (4) The applicant's nationality or racial extraction;
- (5) The applicant's citizenship status;
- (6) The date and place of the applicant's birth;
- (7) The applicant's personal description including sex, height, weight, hair, eyes, complexion, build, scars, and marks;
- (8) The fingerprints of both hands of the applicant; provided that this requirement shall not apply to minors until they reach the age of six years, except as may be requested by a parent or guardian;
- (9) The name, relationship, and address of the nearest relative or other person to be notified in case of sickness, accident, death, emergency, or need of the applicant, if such notification is desired;
- (10) The social security number of the applicant.

§846-29 Procedure. All information required by section 846-28, as far as practicable, shall be secured by employees of the department of the attorney general by personal interviews with the persons registered or responsible members of the same household. Every person giving information in behalf of any applicant under

this part shall answer truthfully all questions and furnish all information within the possession or knowledge of the person which may be asked or requested by the employee within the scope of the requirements of this part.

Special provisions may be made by rules of the attorney general (1) for the registration of inmates, employees, and others residing at or in hospitals, jails, prisons, asylums, homes for the aged, indigent homes, and other institutions, and (2) for the registration of other persons, whenever special treatment is required so as to minimize hardship or inconvenience attendant upon the registration contemplated by this part.

§846-30 Identification certificates; form. The department of the attorney general, after taking the fingerprints of each registrant as provided in this part (except as otherwise provided in the case of children under six years of age), and after securing the information required by or pursuant to this part, shall issue to each registrant a certificate of identification in such form, and with such information, as the attorney general deems necessary and practicable, the certificate to contain, among other things: the registrant's social security number; the date of issue; the name, residence, citizenship status, date of birth (if known), the registrant's signature, a facsimile signature of the attorney general, the signature of the officer or employee issuing the certificate (to be designated as the "director of the data center"), the fingerprints of the index and middle fingers of each of the registrant's hands (except as otherwise provided in the case of children under six years of age), the name and address of the person to be notified in case of need, and such other personal identification data as the attorney general deems necessary and practicable. Upon the fingerprinting of each child attaining the age of six years after having been registered, the child's previous certificate shall be canceled and a new certificate shall be issued under the same number, bearing the child's fingerprints.

§846-31 Identification certificates not to be altered, etc.; duties of holder; lost certificates. No person, except agents of the department of the attorney general acting pursuant to its authority, shall alter, deface, or destroy any certificate of identification. Except as specifically authorized by this section or the rules of the attorney general, no registrant shall loan or give the registrant's certificate of identification to any other person, and no person shall use the certificate of identification of any other person. Any registrant whose certificate of identification is stolen or otherwise lost, or altered, defaced, or destroyed, shall report the fact to the nearest office of the department within forty-eight hours after discovering the fact, and may at any time apply for a duplicate certificate of identification in such manner as the attorney general may require, which duplicate shall be issued by the department upon being satisfied as to such loss, alteration, defacing, or destruction and the payment of a fee of \$6, and shall be distinctly marked as a duplicate. The fee may be waived by the attorney general where the requirement thereof would impose extreme hardship. In the case of an altered or defaced certificate of identification, the certificate, if available, shall be surrendered by the registrant and canceled by the department. Any person finding or coming into the possession of the certificate of identification of any other person shall promptly return or deliver the same to the owner thereof or to the nearest office of the department. Any person finding the person's own lost certificate after having

received a duplicate certificate shall promptly deliver the previously lost certificate to the department.

§846-32 Correction or alteration of records and certificates in cases of error or subsequent changes concerning names, citizenship, description, etc. If, after registration, the name of any registrant is legally changed by marriage, divorce, adoption, legitimation, order of the lieutenant governor, or other legal means, or if there is a change in the registrant's citizenship status, the registrant or other person in charge of the registrant (in the case of a minor or incompetent person), within thirty days after the change of name or citizenship status, report the change and present the registrant's certificate of identification to the department of the attorney general and pay to the department a fee of \$6 (which fee, however, may be waived by the department in cases of extreme hardship). The department, upon being satisfied as to the change and receiving payment of the fee, shall cancel the certificate and issue a new certificate bearing the new name or citizenship status of the registrant, making appropriate notation of the facts upon the records of the department.

If any error has been made in any item of information contained in the records of the department or the certificate of identification concerning any registrant, the department, of its own motion, or upon application by the registrant, and upon receipt of evidence satisfactory to it that error has been committed, with the approval of the attorney general or the attorney general's specially authorized representatives, may correct the error and, in such case, shall make appropriate changes or notations stating the error and the correct information upon the records of the department and the certificate of identification.

In case any item of personal information originally correct with respect to any registrant shall change after registration, the change, if material, may be registered by the department and the records and certificate of identification may be altered to conform thereto, upon receipt by the department of satisfactory evidence as to the change and the approval of the attorney general or the attorney general's specially authorized representative and the payment of a fee of \$6 (which fee, however, may be waived by the department in cases of extreme hardship).

§846-33 Exemptions. The requirements of this chapter as to fingerprinting (except with respect to the fingerprints upon the certificate of identification) may be waived by the attorney general as to any individual whose fingerprints are otherwise available, upon the making of proper cross references upon the records of the department of the attorney general.

§846-34 Forms. The attorney general may prepare, prescribe, and furnish, in conformity with this part, forms for questionnaires, notices, fingerprint cards or forms, certificates of identification, instructions, and all other forms necessary or proper for the prompt, efficient, and adequate execution of the functions of the department of the attorney general set forth in this part.

§846-35 Custody and use of records; information confidential. (a) All information and records acquired by the department of the attorney general under this part shall be confidential. All records shall be filed in an appropriate office in the custody and under the control of the department, which shall at all times be kept separate from any similar records relating to the identification of criminals. The

information shall be available only to authorized persons in the department, and such other persons or agencies as the attorney general shall authorize, under such restrictions as the attorney general shall prescribe. The information and records shall not be subject to subpoena or other court process.

(b) No officer or employee of the department shall divulge any information concerning any registrant acquired from the records of the department or acquired in the performance of any of the officer's or employee's duties under this part to any person not authorized to receive the same pursuant to this part or pursuant to the orders of the attorney general made under subsection (a). No person acquiring from the records any information concerning any registrant shall divulge the information to any person not so authorized to receive the same.

§846-36 Violations; penalties. Any person who (1) knowingly furnishes any false or untruthful information or answer validly required under this part; (2) violates or without adequate excuse fails to comply with any requirement of this part or of any rule issued pursuant thereto, which is legally applicable to the person, and for which no other penalty is specifically prescribed by this part; or (3) without adequate excuse, fails to perform any act lawfully required to be performed by the person pursuant to this part or such rules shall be fined not more than \$500, or imprisoned not more than six months, or both; provided that failure of a person to report that the person's certificate is lost, stolen, or destroyed, or to return to the department of the attorney general the person's lost certificate when the person has secured a duplicate and finds the lost certificate for which such duplicate was issued, shall be punishable by fine of not more than \$5.

"Adequate excuse", as used in this section, means inability to comply with any such requirement or perform any such act, due to any cause beyond the control of the individual concerned and not due to the individual's malfeasance, nonfeasance, or gross negligence.

§846-37 Disposition of income. All moneys received by the department of the attorney general under this part shall be deposited with the director of finance to the credit of the general fund.

§846-38 Uniformity of identification certificates issued. In order to insure uniformity in certificates, no police department in this State shall issue any certificate of identification to others than police officers, except in conformity with the rules of the department of the attorney general, and as its agent, and any fee collected by any police department for certificates shall by it be paid over to the department as required by the rules."

SECTION 4. Section 831-3.2, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) Nothing in this section shall affect the compilation of crime statistics as provided in [part IV of] chapter [28.] 846."

SECTION 5. Notwithstanding any provision in this Act for the consolidation of functions, the personnel involved shall continue to discharge their duties and functions to the same extent as immediately prior to the effective date of this Act.

SECTION 6. Statutory material to be repealed is bracketed. New material, except for Part II of Chapter 846, is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 79

S.B. NO. 1186

A Bill for an Act Relating to Family Courts Jurisdiction.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-14, Hawaii Revised Statutes, is amended to read as follows:

"§571-14 Jurisdiction; adults. The court shall have exclusive original jurisdiction:

- (1) To try any offense committed against a child by his parent or guardian or by any other person having his legal or physical custody, and any violation of section 707-726, 707-727, 709-902, 709-903, 709-904, 709-905, or 298-12, whether or not included in other provisions of this paragraph or paragraph (2).
- (2) To try any adult charged with:
 - (A) Deserting, abandoning, or failing to provide support for any person in violation of law; [or]
 - (B) An offense, other than a felony, against the person of the defendant's husband or wife[.]; or
 - (C) Any violation of a domestic abuse protective order issued pursuant to chapter 586.

In any case within paragraph (1) or (2) of this section the court may, in its discretion, waive its jurisdiction over the offense charged.

- (3) In all proceedings under chapter 580, and in all proceedings under chapter 584.
- (4) In proceedings under chapter 575, the Uniform Desertion and Nonsupport Act, and under chapter 576, the Uniform Reciprocal Enforcement of Support Act.
- (5) For commitment of an adult alleged to be mentally defective or mentally ill.
- (6) In all proceedings for support between parent and child or between husband and wife, and in all proceedings to appoint a guardian of the person of an adult.
- (7) In all proceedings for waiver of jurisdiction over an adult who was a child at the time of an alleged criminal act as provided in section 571-22.
- (8) In all proceedings under chapter 586, Domestic Abuse Protective Orders."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

A Bill for an Act Relating to Allowances for Legislators.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 24-2, Hawaii Revised Statutes, is amended to read as follows:

"§24-2 Allowance for non-Oahu legislator during session. A member of the legislature whose legal residence is on an island other than Oahu shall receive an additional allowance [of \$20 per day, which amount is] to cover all personal expenses such as board, lodging, and incidental expenses but not travel expenses. The allowance shall be equal to the maximum allowance for such expenses payable to any public officer or employee for inter-island travel and shall be paid to each member at the rate prescribed for each day, from the first to the last day of each session, including Saturdays, Sundays, holidays, and days of recess pursuant to the mandatory recess required by Article III, section 10, of the constitution or a concurrent resolution, except for days of recess when a session of the legislature is recessed for more than three days pursuant to a concurrent resolution and for days of unexcused absence of the member from a meeting of the respective house."

SECTION 2. Section 24-3, Hawaii Revised Statutes, is amended to read as follows:

"§24-3 Allowance for expenses while traveling on official legislative business during a session within the State. A member of the legislature whose legal residence is on the island of Oahu and who is required to remain away from the island of [his] the member's legal residence but within the State overnight or longer while on official legislative business during a session and when authorized by the presiding officer of the respective house, shall receive an allowance to cover all personal expenses such as board, lodging, and incidental expenses but not travel expenses. Such allowance shall be equal to the maximum allowance for such expenses payable to any public officer or employee.

[A member of the legislature whose legal residence is on an island other than Oahu and who is required to remain away from the island of his legal residence but within the State overnight or longer while on official legislative business during a session and when authorized by the presiding officer of the respective house, shall receive an allowance to cover all personal expenses such as board, lodging, and incidental expenses but not travel expenses. Such allowance shall be equal to the maximum allowance for such expenses payable to any public officer or employee and shall be in addition to the allowance which he may be entitled to receive under section 24-2, except that he shall not be entitled to this allowance while in attendance at a session of the legislature on Oahu.]"

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 81

H.B. NO. 237

A Bill for an Act Relating to the Control of Tuberculosis.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 325-71, Hawaii Revised Statutes, is amended to read:

“§325-71 Reports by physicians and others. Every physician shall report in writing the name, age, sex, nationality, occupation, place where last employed, if known, and address of every person known by the physician to have tuberculosis, to the department of health or its nearest agent, within twenty-four hours after the fact comes to the knowledge of the physician[.], and shall, upon request, provide to the department x-ray films and medical information from the record of any person suspected by the department to have tuberculosis. The superintendent in charge of any hospital, dispensary, asylum, or other similar private or public institution shall report in like manner the name, age, sex, nationality, occupation, place where last employed, if known, and previous address of every patient having tuberculosis who comes into his care or under his observation, within twenty-four hours thereafter[.], and shall, upon request provide to the department x-ray films and medical information from the record of any person suspected by the department to have tuberculosis. Every laboratory identifying mycobacterium tuberculosis from the sputum, body fluids or tissues of any person, living or dead, shall submit a report of such examination in writing to the department of health.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 82

H.B. NO. 240

A Bill for an Act Relating to the Required Blood Samples of Pregnant Women.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 325-51, Hawaii Revised Statutes, is amended to read:

“§325-51 Blood samples of pregnant women required. Every physician attending a pregnant woman in the State for conditions relating to her pregnancy during the period of gestation or at delivery, shall, in the case of every woman so attended, take or cause to be taken [a sample] one or more samples of the blood of the woman, except when the attending physician shall have evidence that a pregnant woman has met this requirement through a previous test for syphilis, and shall submit such [sample] samples to an approved laboratory for a standard serologic test for syphilis. Every other person permitted by law to attend pregnant women in the State, but not permitted by law to take blood samples, shall cause [a sample] one or more samples of the blood of every pregnant woman attended by [him] the person to be taken by a duly licensed physician or State certified laboratory, or any other person permitted by law to withdraw blood and shall have the [sample] samples

submitted to an approved laboratory for a standard serologic test for syphilis. [The samples of blood shall be taken at the time of the first visit to the pregnant woman or within fourteen days thereafter.] The samples of blood shall be taken at such times during the period of gestation as are designated by rules adopted by the department of health. Every pregnant woman shall permit the sample of her blood to be taken [by a licensed physician] as hereinabove provided.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 83

H.B. NO. 251

A Bill for an Act Relating to Wild Bird, Game Bird, and Game Mammal Permits.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 191-12, Hawaii Revised Statutes, is amended to read:

“§191-12 Permits to take wild birds[.], game birds and game mammals.

The department [of land and natural resources] may adopt rules pursuant to chapter 91:

- (1) Authorizing the taking and collecting of wild birds, game birds, and game mammals for scientific and educational purposes, or for the purpose of distributing wild birds to different localities in the State pursuant to section [[1]187-1.3[]];
- (2) Authorizing the keeping of wild birds in captivity for the protection, treatment for injury or disease, propagation, and such other similar purposes as are consistent with the preservation, protection, and conservation of wild birds;
- (3) Authorizing the taking and destruction of [such] those wild birds, game birds, and game mammals [as] the department may have found after investigation to be destructive to crops and to other game birds and game mammals or otherwise harmful to agriculture, or constitute a nuisance or a health hazard; or
- (4) Where species of wild birds, game birds, and game mammals are generally destructive to crops or otherwise harmful to agriculture within a district, authorizing their destruction within that area without requiring permits or reports.

The rules shall require the person or persons seeking authority to apply for and obtain a written permit from the department. The permits may prescribe terms and conditions the department deems necessary to prevent abuse of the authority granted thereby, and may be canceled by the department, after notice and hearing, for the violation of any term or condition.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 84

H.B. NO. 284

A Bill for an Act Relating to the Commercial Employment Agencies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 373, Hawaii Revised Statutes, is amended as follows:

1. By adding two new sections to be appropriately designated and to read as follows:

“§373- Hearings. In every case where it is proposed to refuse to grant a license or to revoke or suspend a license, the person concerned shall be given notice and hearing in conformity with chapter 91. The notice shall be given in writing by registered or certified mail with return receipt requested at least fifteen days before the hearing.

In all proceedings, the director or hearings officer duly appointed by the director shall have the same powers respecting administering oaths, compelling the attendance of witnesses, producing documentary evidence, and examining witnesses as are possessed by circuit courts. In case of disobedience by any person of any order or subpoena issued by the director or hearings officer, or the refusal of any witness to testify to any matter regarding which such witness may be questioned lawfully, any circuit judge, on application by the director or hearings officer, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein.

§373- Appeal to circuit court. An applicant who has been refused a license and every licensee whose license has been suspended, revoked, or not renewed may appeal the decision to the circuit court in the manner provided by in chapter 91.”

2. By amending section 373-1 to read:

“§373-1 Definitions. As used in this chapter:

- (1) “Director” means the director of [regulatory agencies.] commerce and consumer affairs.
- [(2)] “Appeal board” means the labor and industrial relations appeal board.
- [(3)] (2) “Employment agency” means any individual, agent, partnership, corporation, or association, engaged in the business of providing employment information, procuring employment for applicants, or procuring employees for placement with employers upon request, for a fee or other valuable thing, exacted, charged, or received, but shall not include the United States or the State of Hawaii or instrumentalities thereof.
- [(4)] (3) “Employer” includes any individual, agent, partnership, corporation, or association, employing or seeking to employ any person for hire.

[(5)] (4) "Applicant" means any person who uses the services of an employment agency to secure employment for himself.

[(6)] (5) "Gross wages, salaries, or commissions" means the gross amount of the applicant's actual earnings from employment."

3. By amending section 373-3 to read:

"§373-3 **License fee.** Every employment agency shall pay an annual license fee of [\$25.] \$37.50.

(1) The fee shall be paid to the director on or before July 1 of each year.

(2) Failure to pay the annual license fee shall constitute a forfeiture of license.

(3) Fees collected by the director shall be deposited in the general fund of the State."

4. By amending section 373-9 to read:

"§373-9 **Records and reports.** Every employment agency shall keep records and make such reports with respect to the operation of the business as the director by rule [or regulation] may prescribe. Such records as required by [regulation] rule shall be preserved by the agency and kept in the office of the employment agency for a period of at least two years."

5. By amending section 373-19 to read:

"§373-19 **Rules [and regulations].** The director may make, amend, or repeal such rules [and regulations] as [he] the director may deem proper to fully effectuate this chapter."

6. By repealing sections 373-15 through 373-18.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Boating.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 267-10, Hawaii Revised Statutes, is amended to read:

"§267-10 **Reciprocal agreements and courtesy.** The department of transportation may enter into, amend, revise, suspend, or revoke reciprocal agreements or arrangements with appropriate and duly authorized agencies of other jurisdictions whereby vessels properly numbered and equipped under their laws and regulations may be granted the privileges, exemptions, and benefits granted to owners of vessels properly numbered and equipped under the laws and regulations of this State, in exchange for similar privileges, exemptions, and benefits being extended to owners of vessels registered and numbered in this State.

The department may by appropriate rules [and regulations] define the extent and nature of privileges, exemptions, and benefits which may be extended, as a matter of courtesy, to vessels properly numbered and equipped in other jurisdictions not covered by reciprocal agreements or arrangements.

Notwithstanding the preceding language of this section, the department shall recognize the validity of a number awarded to any vessel by (1) another state under a numbering system approved by the Coast Guard under appropriate federal laws and requirements, or (2) by the Coast Guard, for a period of at least [ninety] sixty days."

SECTION 2. Section 267B-1, Hawaii Revised Statutes, is amended to read as follows:

"[[§267B-1]] **Definitions.** As used in this chapter:

"[Policeman]" "**Enforcement officer**" means a police officer and any other state [and] or county officer charged with the enforcement of state laws.

"Vessel" means every description of watercraft, used or capable of being used as a means of transportation on water.

"Waters of the State" means any waters within the jurisdiction of the State and the marginal seas adjacent to the State."

SECTION 3. Section 267B-3, Hawaii Revised Statutes, is amended to read:

"[[§267B-3]] **Questioning and detaining suspected persons aboard a vessel.** [A policeman] An¹ **enforcement officer** may detain any person found upon a vessel under circumstances as reasonably justify a suspicion that the person boarded without permission for the purpose of demanding, and may demand of the person, his name, address, and the nature of his business upon the vessel. If the [policeman] **enforcement officer** has reason to believe that the person has no right to be upon the vessel, the [policeman] **enforcement officer** may arrest the person without a warrant on the charge of violating section 267B-2."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

Note

1. Underscoring missing.

ACT 86

H.B. NO. 814

A Bill for an Act Relating to the Hawaii Housing Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 356, Hawaii Revised Statutes, is amended by adding a new section to read:

"**§356- Delinquent accounts.** (a) Notwithstanding section 40-82, the authority, with the approval of the attorney general, may delete from its accounts receivable records delinquent accounts for vacated units within federal low-rent public housing projects which have been delinquent for at least ninety days.

(b) The delinquent accounts may be assigned to a collection agency."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 87

H.B. NO. 837

A Bill for an Act Relating to Aquatic Life.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 188, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

"§188- Bullpen trap; description. (a) For the purpose of this chapter, a "bullpen trap" is a contraption which utilizes a length or lengths of material:

- (1) Normally foreign to the ocean; and
- (2) Which is situated to guide aquatic life into a porous or nonporous receptacle designed to prevent the escape of some or all of the aquatic life entering the receptacle;

whether or not the length or lengths of material are connected to the receptacle.

(b) If the length or lengths of material utilized in the type of trap described under subsection (a) have mesh intended to entangle aquatic life, the length or lengths shall also be considered a net under this chapter."

SECTION 2. Section 188-29, Hawaii Revised Statutes, is amended to read as follows:

"§188-29 Nets and traps. (a) It is unlawful for any person to use nets or traps including bullpen traps of any type with a stretched mesh of less than two inches, or to use any trap which is not portable or which is more than ten feet in length or six feet in height or width; provided that:

- (1) Persons engaged in sport fishing may use throw nets with stretched mesh of not less than one and one-half inches,
- (2) Pond owners or operators who hold a license issued under section 188-44 may use nets of smaller mesh to take young mullet or pua for stocking their fish ponds,
- (3) Commercial marine licensees who hold a license issued under section 188-45 may use nets of smaller mesh to take nehu, iao, marquesan sardine, or any other species for which an open season may be declared by the department of land and natural resources for use as bait,
- (4) All persons may use nets of smaller mesh to take shrimp or opae, opelu, makiawa, or mikiawa,
- (5) Aquarium fish collectors with a valid aquarium fish permit issued by the department pursuant to section 188-31 may use nets of smaller

mesh to take aquarium fish in conformance with the conditions of the permit, and

- (6) All persons may use a net with mesh of not less than one and one-half inches to take akule; provided that no akule measuring less than eight and one-half inches in total length from the tip of the snout to the tip of the tail shall be taken with a net during the months of July, August, September, and October.
- (7) For the purposes of measuring the length of a trap under this section, the length of a bullpen trap described under section 188- shall include and be measured as the length of the material utilized to guide aquatic life into the receptacle or length of the receptacle itself.

(b) The department of land and natural resources may, pursuant to chapter 91, promulgate rules relating to requirements for escape openings or devices on any type of traps.

The rules shall include provisions describing the type, measurements, and locations of escape openings or devices on traps under this subsection and become effective three years after establishment."

SECTION 3. Statutory material to be repealed is bracketed.¹ New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

Note

1. No bracketed material.

ACT 88

H.B. NO. 882

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is amended to read:

"§235-2.3 Conformance to the federal Internal Revenue Code. (a) For all taxable years beginning after [December 31, 1981,] December 31, 1982, as used in this chapter "Internal Revenue Code" means subtitle A, chapter 1 of the federal Internal Revenue Code of 1954 as amended as of [December 31, 1981] December 31, 1982 as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income except those provisions of the Internal Revenue Code and federal Public Law which pursuant to this chapter and this section do not apply or are otherwise limited in application.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine (1) the basis of property, if a taxpayer first determined the basis of property in a taxable year to which such sections apply, and if such determination was made before January 1, 1978, and (2) gross income, adjusted gross income, ordinary

income and loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978.

(b) The following Internal Revenue Code subchapters, parts of subchapters, sections, subsections, and parts of subsections shall not be operative for the purposes of this chapter, unless otherwise provided:

- (1) Subchapter A (sections 1 to 58) (with respect to determination of tax liability).
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).
- (3) Section 103 (with respect to interest on certain governmental obligations). For treatment, see section 235-7(b).
- (4) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see subsection (e) of this section and sections 235-7(a)(10) to (12) and 235-9(a)(2) and (5).
- (5) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3).
- (6) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
- (7) Section 169 (with respect to amortization of pollution control facilities). For treatment, see section 235-11.
- (8) Section 196 (with respect to deduction for certain unused investment credits).
- [(8)] (9) Section 221 (with respect to deduction for two-earner married couples).
- [(9)] (10) Subchapter B, part VIII (sections 241 to 250) (with respect to special deductions for corporations), except sections 248 (with respect to organizational expenditures) and 249 (with respect to limitation on deduction of bond premium on repurchase). For treatment, see section 235-7(c).
- [(10)] (11) Section 280C (with respect to portion of wages for which credit is claimed under section 40 or 44B).
- (12) Section 291 (with respect to special rules relating to corporate preference items).
- [(11)] (13) Section 367 (with respect to foreign corporations).
- [(12)] (14) Subchapter F (sections 501 to 528) (with respect to exempt organizations), except as provided in subsection (e) of this section. For treatment, see section 235-9.
- [(13)] (15) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).
- [(14)] (16) Subchapter H (sections 581 to [596] 597) (with respect to banking institutions). For treatment, see chapter 241.
- [(15)] (17) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).
- [(16)] (18) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).

- [(17)] (19) Subchapter L (sections 801 to 844) (with respect to insurance companies). For treatment, see sections 431-318 and 431-320.
- [(18)] (20) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.
- [(19)] (21) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States), except part IV (sections 991 to 997) (with respect to domestic international sales corporations). For treatment, see sections 235-4, 235-5, and 235-7(b).
- [(20)] (22) Section 1055 (with respect to redeemable ground rents).
- [(21)] (23) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).
- [(22)] (24) Section 1201 (with respect to alternative tax). For treatment, see section 235-71(a).
- [(23)] (25) Subchapter Q (sections 1301 to 1351) (with respect to readjustment of tax between years and special limitations).
- [(24)] (26) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons). For treatment, see chapter 421.

(c) Section 63 (with respect to taxable income defined) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that the zero-bracket amount in section 63(d) of the Internal Revenue Code shall instead mean:

- (1) \$1,000 in the case of:
 - (A) A joint return as provided by section 235-93, or
 - (B) A surviving spouse (as defined in section 2(a) of the Internal Revenue Code),
- (2) \$800 in the case of an individual who is not married and who is not a surviving spouse (as so defined),
- (3) \$500 in the case of a married individual filing a separate return, or
- (4) Zero in any other case.

(d) In administering the provisions of sections 410 to 415 (with respect to special rules relating to pensions, profit sharing, stock bonus plans, etc.) and sections 418 to 418L (with respect to special rules for multiemployer plans) of the Internal Revenue Code, the department of taxation shall adopt rules under chapter 91 relating to the specific requirements under such sections and to such other administrative requirements under those sections as may be necessary for the efficient administration of sections 410 to 418E.

In administering sections 401 to 418E (with respect to deferred compensation) of the Internal Revenue Code, Public Law 93-406, section 1017 (i), shall be operative for the purposes of this chapter.

In administering section 402 (with respect to the taxability of beneficiary of employees' trust) of the Internal Revenue Code, the tax imposed on lump sum distributions by section 402(e) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter.

(e) Sections 512 to 515 (with respect to taxation of business income of certain exempt organizations) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this subsection.

The persons and organizations exempted by section 235-9 shall, if subject to tax under the Internal Revenue Code upon their "unrelated business taxable income", be taxed thereon under this chapter. For the purposes of this subsection the term "taxable income" as used in subsection (f)(2) of this section and section 235-71 shall be read as "unrelated business taxable income".

"Unrelated business taxable income" means the same as in the Internal Revenue Code, except that in the computation thereof sections 235-3 to 235-5, and 235-7 (except subsection (c)), shall apply, and in the determination of the net operating loss deduction under section 235-7(d) there shall not be taken into account any amount of income or deduction which is excluded in computing the unrelated business taxable income. Unrelated business income shall not include any income from a prepaid legal service plan.

(f) Section 641 (with respect to imposition of tax) of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The deduction for exemptions shall be allowed as provided in section 235-54(b).
- (2) The deduction for contributions and gifts in determining taxable income shall be limited to the amount allowed in the case of an individual, unless the contributions and gifts are to be used exclusively in the State.
- (3) The tax imposed by section 1(e) of the Internal Revenue Code as applied by section 641 of the Internal Revenue Code is hereby imposed by this chapter at the rate and amount as determined under section 235-51(e).

(g) Section 644 (with respect to special rule for gain on property transferred to trust at less than market value) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the determination of the interest rate established under section 6621 of the Internal Revenue Code referred to in section 644(a)(2) of the Internal Revenue Code shall instead be the interest rate established under section 231-39(b)(4).

(h) Section 667 (with respect to treatment of amounts deemed distributed by trusts in preceding years) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the reference to tax-exempt interest to which section 103 of the Internal Revenue Code applies in section 667(a) of the Internal Revenue Code shall instead be a reference to tax-exempt interest to which section 235-7(b) applies.

(i) Sections 991 to 997 (with respect to domestic international sales corporations) of the Internal Revenue Code shall be operative for the purposes of this chapter; provided that any corporation electing to be a domestic international sales corporation under this chapter shall be incorporated and have its principal place of business in this State.

(j) Section 1034 (with respect to rollover of gain on sale of principal residence) of the Internal Revenue Code shall be operative for the purpose of this chapter; provided section 1034(a) (with respect to nonrecognition of gain) of the Internal Revenue Code shall apply only to:

- (1) A taxpayer who purchases a replacement residence which is located within the State, or
- (2) A taxpayer who is a resident of the State, taxable upon the taxpayer's entire income, computed without regard to source within the State.

(k) Section 1212 (with respect to capital loss carrybacks and carryforwards) of the Internal Revenue Code shall be operative for the purposes of this chapter; except that for the purposes of this chapter the capital loss carryback provisions of section 1212 shall not be operative and the capital loss carryforward allowed by section 1212(a), shall be limited to five years.

(l) Subchapter S (sections [1371] 1361 to 1379) [(with respect to the election of certain small business corporations as to taxable status)] (with respect to tax treatment of S corporations and their shareholders) of chapter 1 of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The term [small business] S corporation as defined in section [1371] 1361 of the Internal Revenue Code means a corporation which does not have:

- (A) A nonresident as a shareholder; or
- (B) A resident who is an individual who has taken up residence in the State after attaining the age of sixty-five years and before July 1, 1976 and who is taxed under this chapter only on the basis of income received or derived from property owned, personal services performed, trade or business carried on, and any and every other source in the State;

unless the individual resident in subparagraph (B) shall have waived the benefit of section 3, Act 60, Session Laws of Hawaii 1976, as to income includible in the individual's gross income under this chapter and as to such gross income shall have consented to the taxation thereof in the same manner as if the individual had taken up residence in the State after June 30, 1976.

- [(2) An election under section 1372(a) of the Internal Revenue Code made by a small business corporation shall terminate, if for any taxable year of the corporation for which the election is in effect such corporation derives more than eighty per cent of its gross receipts from sources outside the State of Hawaii. Such termination shall be effective for the taxable year of the corporation in which it derives more than eighty per cent of its gross income from sources outside the State and for all succeeding taxable years.]
- [(3)] (2) An election under section [1372] 1362 of the Internal Revenue Code shall not be effective for any taxable year of the corporation unless there is also in effect for such taxable year an election for federal

income tax purposes under subchapter S of chapter 1 of the Internal Revenue Code.

- [(4)] (3) The tax imposed by section [1378(a)] 1374 of the Internal Revenue Code is hereby imposed by this chapter at an amount equal to 3.08 per cent on the amount by which the net capital gain of the corporation exceeds \$25,000. For the purposes of section [1378(c)(3)] 1374(c)(3) of the Internal Revenue Code the amount of tax to be determined shall not exceed 3.08 per cent on the net capital gain attributable to property acquired as provided in section [1378(c)(3)(B)] 1374(c)(3)(B) of the Internal Revenue Code and having a basis described in section [1378(c)(3)(C)] 1374(c)(3)(C) of the Internal Revenue Code.
- (4) The tax imposed by section 1375(a) of the Internal Revenue Code is hereby imposed by this chapter at an amount equal to 6.435 per cent of the amount of the net passive income for the taxable year.

(m) References in provisions of subtitle A, chapter 1, of the Internal Revenue Code which are operative in this State to provisions in the Internal Revenue Code which are not operative in this State shall be considered inoperative for the purposes of determining gross income, adjusted gross income, ordinary income and loss, and taxable income; provided that references to time limits and other administrative provisions in subtitle F (sections 6001 to 7852) of the Internal Revenue Code contained in operative sections of subtitle A, chapter 1, of the Internal Revenue Code shall be deemed references to applicable provisions of this chapter or chapter 231 or 232, and in the absence of applicable provisions in this chapter or chapter 231 or 232, then to rules adopted by the director of taxation under subsection (n). If inoperative provisions of subtitle A, chapter 1, of the Internal Revenue Code have been codified in this chapter such references shall be deemed references to the codified provisions in this chapter. Transitory and savings provisions in federal Public Laws amending sections of the Internal Revenue Code operative in this chapter shall be operative for the purposes of this chapter. Provisions in this chapter or chapter 231 or 232 in conflict with the Internal Revenue Code or transitory or savings provisions in federal Public Law shall control.

Retroactive provisions in federal Public Laws amending sections of the federal Internal Revenue Code operative in this chapter affecting taxable years beginning or ending before the December 31 date in subsection (a) shall be operative for the purposes of this chapter; provided that the effective dates in Public Law 96-471 placing it in effect for the taxable year 1980 shall be operative for the purposes of this chapter.

(n) The director of taxation may adopt by rule under chapter 91 the rules and regulations promulgated by the United States Secretary of Treasury or a delegate of the Secretary relating to the provisions of subtitle A, chapter 1 or 6, of the Internal Revenue Code operative in this chapter and any administrative provisions of the Internal Revenue Code (subtitle F, sections 6001 to 7852) not in conflict with or similar to provisions contained in this chapter or chapter 231 or 232 either by reference or by setting them forth in full.

(o) The department of taxation shall submit to each regular session of the legislature a bill to amend subsection (a) of this section and such other sections and

subsections of this chapter as may be necessary to adopt the Internal Revenue Code as it exists on the December 31 preceding such regular session. In submitting the bill the department may provide that certain amendments to the Internal Revenue Code by Congress during the preceding calendar year shall not be operative in this State or as operative are limited in their operation. The department shall also prepare a digest and explanation of the amended provisions of the Internal Revenue Code recommended for operation, as well as those provisions which are limited in their operation, or which are not recommended for operation, and shall submit with the bill required by this subsection the digest, explanation, and a statement of revenue impact of the adoption of such bill. In preparing the bill, digest, and explanation the department may request the assistance of the office of the legislative reference bureau.

It is the intent of the legislature that it shall each year adopt all amendments to the Internal Revenue Code for the calendar year preceding the year in which the legislature meets; provided that the legislature may choose to adopt none of the amendments to the Internal Revenue Code or may provide that certain amendments are limited in their operation."

SECTION 2. Subsection (c) of section 235-5, Hawaii Revised Statutes, is amended to read:

"(c) Deductions connected with income taxable under this chapter shall be allowed, but deductions connected with income not taxable under this chapter shall not be allowed. Deductions from adjusted gross income that are not connected with particular property or income, such as medical expenses, shall be allowed only to the extent of the ratio of the adjusted gross income attributed to this State to the entire adjusted gross income computed without regard to source in the State.

Deductions by individual taxpayers from gross income for alimony and separate maintenance payments under section 215 of the Internal Revenue Code shall be allowed only to the extent of the ratio of gross income attributed to this State to the entire gross income computed without regard to source in this State; provided that as used in this sentence "gross income" means gross income as defined in the Internal Revenue Code, minus the deductions allowed by section 62 of the Internal Revenue Code, other than the deductions for alimony and separate maintenance payments under section 215 of the Internal Revenue Code.

Deductions by individual taxpayers from gross income for pension, profit-sharing, stock bonus plans, and other plans qualified under sections 401 to 409 of the Internal Revenue Code, as such sections are operative for the purposes of this chapter, shall be allowed only to the extent that such deductions are attributed to compensation [(including compensation as defined in section 401(j)(5)(C) of the Internal Revenue Code)] earned in this State."

SECTION 3. Section 235-63, Hawaii Revised Statutes, is amended to read:

"§235-63 Statements to employees. Every employer required to deduct and withhold any tax on the wages of any employee shall furnish to each employee in respect of his employment during the calendar year, on or before January 31 of the succeeding year, or if his employment is terminated before the close of a calendar year, [on the day on which the last payment of wages is made,] within

thirty days after the date of receipt of a written request from the employee if such thirty-day period ends before January 31, a written statement, showing the period covered by the statement, the wages paid by the employer to the employee during such period, and the amount of the tax deducted and withheld or paid in respect of such wages. Each such employer shall file on or before the last day of February following the close of the calendar year a duplicate copy of each such statement. The department of taxation may grant to any employer a reasonable extension of time, not in excess of sixty days, with respect to any statement required by this section to be furnished to an employee or filed, and may by regulation provide for the furnishing or filing of statements at such other times and containing such other information as may be required for the administration of this chapter. The department shall prescribe the form of the statement required by this section and may adopt any federal form appropriate for the purpose."

SECTION 4. Section 235-94.5, Hawaii Revised Statutes, is amended to read:

"§235-94.5¹ **Return of [electing small business] S corporation.** Every [electing small business] S corporation (as defined in section [1371] 1361 of the Internal Revenue Code) shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by this chapter, the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, the amount of money and other property distributed by the corporation during the taxable year to each shareholder, the date of each such distribution, and such other information, for the purposes of carrying out this chapter, as the department of taxation may by forms or [regulations] rules prescribe. Any return filed pursuant to this section shall, for purposes of sections 235-111 and 235-112 (relating to limitations), be treated as a return filed by the corporation under section 235-92."

SECTION 5. In administering the provisions of section 241-4(b)(9), Hawaii Revised Statutes, (with respect to a life insurance company (as defined by the Internal Revenue Code), which is determined to be a financial corporation as defined in chapter 241, Hawaii Revised Statutes) Internal Revenue Code section 805(c) as amended by Public Law 97-248, shall be operative for the purpose of chapter 241, Hawaii Revised Statutes, for taxable years beginning after December 31, 1981 and before January 1, 1984.

SECTION 6. The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1983, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made to section 235-2.3, Hawaii Revised Statutes, by any other Act enacted by the regular session of 1983.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act upon its approval shall apply to taxable years beginning after December 31, 1982; provided that the amendments to section 235-

5(c), Hawaii Revised Statutes, in section 2 of this Act shall apply to taxable years beginning after December 31, 1983.

(Approved May 20, 1983.)

Note

1. Brackets missing.

ACT 89

H.B. NO. 1117

A Bill for an Act Relating to State Fairs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. The purpose of this Act is to repeal the statutory provisions relating to state fairs since the annual state farm fair is now sponsored by the Hawaii Farm Bureau Federation.

SECTION 2. Chapter 204, Hawaii Revised Statutes, is repealed.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 90

H.B. NO. 1221

A Bill for an Act Relating to Controlled Substances.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 329-55, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) The following are subject to forfeiture [according to the procedures set forth in section 701-119]:

- (1) All controlled substances which have been manufactured, cultivated, grown, distributed, dispensed, or acquired in violation of this chapter;
- (2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, cultivating, growing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;
- (3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2);
- (4) All conveyances, including aircraft, vehicles, or vessels which are used or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (1) or (2), but:
 - (A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other

person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

- (B) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent; and
 - (C) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission.
- (5) All books, records, and research products and materials, including formulas, microfilms, tapes, and data which are used, or intended for use, in violation of this chapter.
 - (6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner."

2. By amending subsections (c) and (d) to read:

"(c) In the event of the seizure of property described in subsection (a)(1) to (6), pursuant to subsection (b), proceedings under subsection (d) shall be instituted promptly. When property is seized under this chapter, the department shall report the fact of the seizure within ten days thereof to the prosecuting attorney of the county where the seizure was made. Within thirty days of the notification of the seizure, the prosecuting attorney shall cause to be filed in the circuit court in the county in which the property was seized, an action in rem, petitioning the court for forfeiture of the property. Upon the filing of the action, the court shall order the department to hold the property for further order of the court, and shall order that the owner of the seized property be served with notice of action. Notice of such action shall be made promptly in person, by registered mail, or by publication in accordance with section 634-23. At the expiration of twenty days after such filing, if no claimant has appeared, the court shall order the property forfeited to the State, to be disposed of by the department in a manner consistent with subsection (e).

If a claim is made in response to the petition for forfeiture within the twenty-day period, the court shall schedule a hearing, at which time the State shall prove by preponderance of evidence that the property was used, intended to be used, furnished, or acquired in violation of this chapter. At the conclusion of such hearing, the court shall order the property forfeited to the State; provided that if any claimant proves the claimant's right to an exception under subsection (a)(4)(A), (B), or (C) the court shall order the return of the property or such portion of the property that is proved to be encumbered, to the bona fide owner, lienholder, or mortgagee.

(d) Property, as described in subsection (a)(1) to (6), taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody

of the seizing authority subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When such property is seized under this chapter, the seizing authority may:

- (1) Place [the] such property under seal;
- (2) Remove [the] such property to a place designated by it; or
- (3) Require the sheriff to take custody of [the] such property and remove it to an appropriate location for disposition in accordance with law.

If a county seizes property under subsection (a)(4) it shall immediately notify the department of the seizure, and shall relinquish the seized property to the department upon its request therefor. In the event the department does not request the property seized by the county, the property shall be disposed of by the county in a manner consistent with subsection (e)."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1983.)

ACT 91

S.B. NO. 122

A Bill for an Act Relating to Personal Records.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 92E-7, Hawaii Revised Statutes, is amended to read:

"**[§92E-7] Copies.** The agency may charge the individual for any copies and for the certification of any copies; provided that such charges or fees shall not exceed the actual cost of duplication or of transcription into readable or intelligible form [and], duplication, and [shall not include any costs of] searching for the record."

SECTION 2. Section 92E-8, Hawaii Revised Statutes, is amended to read:

"**[§92E-8] Right to correct personal record; initial procedure.** (a) An individual has a right to have any factual error in that person's personal record corrected and any misrepresentation or misleading entry in the record amended by the agency which is responsible for its maintenance.

(b) Within twenty business days after receipt of a written request to correct or amend a personal record[, and evidence that the personal record contains a factual error, misrepresentation, or misleading entry, an agency shall acknowledge receipt of the request and purported evidence in writing[, and promptly:

- (1) Make the requested correction or amendment; or
- (2) Inform the individual in writing of its refusal to correct or amend the personal record, the reason for the refusal, and the agency procedures for review of the refusal."

SECTION 3. Section 92E-11, Hawaii Revised Statutes, is amended to read:

"**[§92E-11] Civil actions and remedies.** (a) An individual may bring a civil action against an agency in a circuit court of the State whenever an agency fails

to comply with any provision of this chapter, and after appropriate administrative [remedy] remedies under sections 92E-6, 92E-8, and 92E-9 have been exhausted.

(b) In any action brought under this section the court may order the agency to correct or amend the complainant's personal record, to require any other agency action, or to enjoin such agency from improper actions as the court may deem necessary and appropriate to render substantial relief.

(c) In any action brought under this section in which the court determines that the agency [acted in a manner which was intentional or wilful,] knowingly or intentionally violated a provision of this chapter, the agency shall be liable to the complainant in an amount equal to the sum of:

- (1) Actual damages sustained by the complainant as a result of the failure of the agency to properly maintain the personal record, but in no case shall a complainant (individual) entitled to recovery receive less than the sum of \$100; and
- (2) The costs of the action together with reasonable attorney's fees as determined by the court.

(d) The court may assess reasonable attorney's fees and other litigation costs reasonably incurred against the agency in any case in which the complainant has substantially prevailed, and against the complainant where the charges brought against the agency were frivolous.

(e) An action may be brought in the circuit court where the complainant resides, the complainant's principal place of business is situated, or the complainant's relevant personal record is situated. No action shall be brought later than two years after the date of the cause of action, which shall be the date of the last written communication to the agency requesting compliance."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 21, 1983.)

A Bill for an Act Relating to Medicine and Surgery.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 453, Hawaii Revised Statutes, is amended as follows:

1. By amending sections 453-2 and 453-3¹ to read:

"§453-2 License required; exceptions. Except as otherwise provided by law, no person shall practice medicine or surgery in the State either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce [himself,] one's self, either publicly or privately, as prepared or qualified to so practice, or shall append the letters "DR." or "M.D." to [his] one's name, with the intent thereby to imply that [he] the individual is a practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license, obtained from

the board of medical examiners, in form and manner substantially as hereinafter set forth.

Nothing herein shall (1) apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery; (2) prohibit service in the case of emergency or the domestic administration of family remedies; (3) apply to any commissioned medical officer in the United States army, navy, marine corps, or public health service, engaged in the discharge of [his] one's official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation with a licensed practitioner of this State if the practitioner from another state, at the time of such consultation, is licensed to practice in the state in which he resides; provided that the practitioner from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and provided further that the laws and regulations relating to contagious diseases are not violated; (4) prohibit services rendered by any physician-support personnel or any physician's assistant when such services are rendered under the direction and control of a physician licensed in this State, except for those specific functions and duties delegated by law to those persons licensed as optometrists under chapter 459. Such direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs such support personnel and physician's assistant shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such personnel or physician's assistant. The board of medical examiners shall, in conformity with chapter 91, promulgate rules [and regulations] regarding standards of medical education and training governing physician-support personnel and physician's assistant, such standards to equal but not be limited by existing national educational and training standards; and standards governing information to be given to patients as required by section 671-3. Any person who provides emergency medical services as a full or part-time employee of any emergency ambulance service shall be certified under part II.

§453-3 Limited and temporary licenses. The board of medical examiners shall issue a limited and temporary license to an applicant who has not been examined as required by section 453-4, and against whom no disciplinary proceedings are pending in any state or territory, if the applicant is otherwise qualified to be examined, and upon determination that:

- (1) There is an absence or a shortage of licensed physicians in a particular locality, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall permit the practice of medicine and surgery by the applicant only in the particular locality, and no other, as shall be set forth in the license issued to [him.] the applicant. The license shall be valid only for a period of eighteen months from the date of issuance; or
- (2) The applicant is to be employed by an agency or department of the state or county government, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or

territory of the United States. A limited and temporary license issued hereunder shall only be valid for the practice of medicine and surgery while the applicant is in the employ of such governmental agency or department and in no case shall be used to provide private patient care for a fee. A license issued under this subparagraph may be renewed from year to year; or

- (3) The applicant would practice medicine and surgery only while under the direction of a physician regularly licensed in the State other than as permitted by this section, and that the applicant intends to take the regular licensing examination conducted by the board within the next eighteen months. In no case shall a limited and temporary license issued hereunder be valid for more than a period of eighteen months from the date of issuance; or
- (4) The applicant has been appointed as an intern or accepted for specialty or resident training in a hospital approved by the board, and that the applicant shall be limited in the practice of medicine and surgery to the extent required by the duties of [his] the applicant's position or by [his] the program of training while at the hospital. A limited and temporary license hereunder shall be issued without regard to the requirement of section 453-4(4) relative to internship. The license shall be valid during the period in which the applicant remains as intern or a resident in training, and may be renewed from year to year during the period; or
- (5) A public emergency exists, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall only be valid for the period of such public emergency.

Nothing herein requires the registration or licensing hereunder of nurses, or other similar persons, acting under the direction and control of a licensed physician."

2. By amending sections 453-4 and 453-5 to read:

"**§453-4 Qualifications for examination.** Except as otherwise provided by law, no person shall be licensed to practice medicine or surgery unless [he] the applicant has passed an examination and has been found to be possessed of the necessary qualifications.

Before any applicant shall be eligible for the examination [he] the applicant shall furnish proof satisfactory to the board that:

- (1) [He] The applicant is of [good moral character;] demonstrated competence and professional knowledge;
- (2) (A) [He] The applicant is a graduate of a medical school or college approved by the [council on medical education] Council on Medical Education and hospitals of the American [medical association;] Medical Association; or
- (B) [He] The applicant is a graduate of a foreign medical school, who has had at least three years' medical experience or training in a hospital approved by the [council on medical education] Council on Medical

Education and hospitals of the American [medical association] Medical Association for the internship or residency, and has passed the qualifying examination of the [educational council for foreign medical graduates] Educational Council for Foreign Medical Graduates or its successor;

- (3) [He] The applicant has served an internship of at least one year in either a hospital which has been certified or approved for the training of interns and resident physicians by the American [medical association, council on medical education and hospitals,] Medical Association, Council on Medical Education and Hospitals, or if outside the United States, in a hospital which is shown by the applicant to the satisfaction of the board to possess standards substantially the equivalent of those required for such American [medical association] Medical Association approval, or has completed one year of residency training in a program approved by the American [medical association, council of medical education and hospitals.] Medical Association, Council of Medical Education and Hospitals.

Diplomates of the national board of medical examiners or those who have passed the federation licensing examination (FLEX) with scores deemed satisfactory by the board and who meet the requirements of paragraphs (1), (2), and (3) above, shall be licensed without the necessity of any further examination; provided that with respect to any applicant the board may require letters of evaluation, professional evaluation forms, and interviews with chiefs of service or attending physicians who have been associated with an applicant or chief residents on a service who have been associated with an applicant during [his] the applicant's training or [during his] practice to be used by the board in assessing the applicant's qualifications to practice medicine.

§453-5 Board of medical examiners; appointment, removal, qualifications. For the purpose of carrying out this chapter the governor shall appoint in the manner prescribed in section 26-34, a board of medical examiners, whose duty it shall be to examine all applicants for license to practice medicine or surgery.

The board shall consist of nine persons, seven of whom shall be physicians or surgeons licensed under the laws of the State and two of whom shall be lay members appointed from the public at large. Of the seven physician or surgeon members, four shall be appointed from the city and county of Honolulu and one each from each of the other counties. Medical societies in the various counties may conduct elections periodically but no less frequently than every two years to determine nominees for the board to be submitted to the governor. In making appointments the governor may consider recommendations submitted [to him] by the medical societies and the public at large. Each member shall serve until [his] a successor is appointed and qualified.

The members of the board shall serve without pay; provided that they shall be allowed their reasonable expenses for travel and other costs incurred in the discharge of their duties. A majority of the board shall constitute a quorum.

The department of commerce and consumer affairs shall provide administrative support to the board. The department shall employ, not subject to chapters 76 and 77, an executive secretary to administer the board's activities."

3. By amending sections 453-5.1 and 453-5.2 to read:

"**[[§453-5.1]] Powers and duties of board.** In addition to other powers and duties established by this chapter, the board of medical examiners shall have all the powers necessary or convenient to effectuate the purpose of this chapter, including, without limitation, the following powers:

- (1) To adopt rules, pursuant to chapter 91; and
- (2) To enforce this chapter and rules adopted pursuant thereto.

[[§453-5.2]] Board of medical examiners; delegation of authority. The board of medical examiners may by written order delegate to the executive secretary of the board or other personnel of the department of commerce and consumer affairs any of its powers or duties as it deems reasonable and proper for the administration of this chapter. The board shall not, however, delegate its authority to:

- (1) Adopt, amend, or repeal rules [and regulations];
- (2) Take final disciplinary action against a licensee; or
- (3) Restore a license which was revoked."

4. By amending section 453-6 to read:

"§453-6 Fees; expenses. No applicant shall be examined under this chapter until [he] the applicant has paid to the board of medical examiners a fee of \$125. As a prerequisite to the issuance of a limited and temporary license under this chapter, the applicant shall pay to the board a fee of \$75; provided that the fee to be paid by an applicant qualifying under section 453-3(4) shall be \$37.50. Every person holding a license under this chapter shall re-register with the board biennially in each even-numbered year, not later than January 31 and for such registration shall pay a fee of \$150. At the time of re-registration, the physician or surgeon shall present to the board evidence of compliance with a program of continuing medical education adopted by the board. Failure to re-register and present such evidence shall constitute a forfeiture of license, which may be restored only upon written application therefor and payment to the board of a fee of \$200. All such fees shall be deposited by the director of [regulatory agencies] commerce and consumer affairs with the director of finance to the credit of the general fund."

5. By amending sections 453-7 and 453-8 to read:

"§453-7 Form of license. The form of license to practice medicine and surgery shall be substantially as follows:

State of Hawaii, Board of Medical Examiners

License to Practice Medicine and Surgery

_____, [a native of _____,
age _____ years,] having been duly examined by the Board of Medical Examiners, and having been found to be possessed of the necessary qualifications, is hereby licensed to practice medicine and surgery in the State of Hawaii.

This license is granted and accepted on the express condition that it may be revoked at any time for any of the causes enumerated in Section 453-8, Hawaii

Revised Statutes, which cause or causes shall have been proven to the satisfaction of the Board of Medical Examiners.

Given under the seal of the Board of Medical Examiners
this _____ day of _____ A.D. _____.

By _____

Chairman, Board of Medical Examiners

The form of temporary and limited license to practice medicine and surgery shall be substantially as follows:

State of Hawaii, Board of Medical Examiners
Limited and Temporary License to Practice
Medicine and Surgery

_____ [a native of _____,
age _____ years,] having been duly considered by the Board of Medical Examiners,² and having been found to be possessed of the necessary qualifications, is hereby temporarily licensed to practice medicine and surgery in the State of Hawaii, subject to the following conditions and limitations:

This temporary and limited license is granted and accepted on the express condition that it may be revoked at any time for any of the causes enumerated in section 453-8, Hawaii Revised Statutes, or for any violation of the conditions and limitations contained herein.

Given under the seal of the Board of Medical Examiners
this _____ day of _____ A.D. _____.

By _____

Chairman, Board of Medical Examiners

§453-8 Revocation, limitation or suspension of licenses. (a) Any license to practice medicine and surgery may be revoked, limited, or suspended by the board of medical examiners at any time in a proceeding before the board for any one or more of the following acts or conditions on the part of the holder of such license:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing any person to solicit patients for [him;] one's self;
- (3) Engaging in false, fraudulent, or deceptive advertising, including, but not limited to:
 - (A) Making excessive claims of expertise in one or more medical specialty fields;
 - (B) Assuring a permanent cure for an incurable disease; or
 - (C) Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;
- (4) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;

- (5) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
 - (6) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
 - (7) Professional misconduct or gross carelessness or manifest incapacity in the practice of medicine or surgery;
 - (8) Negligence or incompetence, including, but not limited to, the consistent use of medical service which is inappropriate or unnecessary;
 - (9) Conduct or practice contrary to recognized standards of ethics of the medical profession;
 - (10) Violation of the conditions or limitations upon which a limited or temporary license is issued;
 - (11) Revocation, suspension, or other disciplinary action by another state of a license or certificate for reasons as provided in this section; or
 - (12) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a physician, notwithstanding any statutory provision to the contrary.
- (b) If any license is revoked, limited, or suspended by the board for any act or condition listed in this section, the board shall notify the holder of the license in writing of the revocation, limitation, or suspension. Any license to practice medicine and surgery which has been revoked under this section may be restored by the board."

6. By amending sections 453-8.1 and 453-8.2 to read:

"**[[§453-8.1]] Voluntary limitation of license.** A physician or surgeon may request, in writing, that the board limit [his] the individual's license to practice. The board may grant the request and may impose conditions on the limited license. The board shall determine whether and when such limitation shall be removed.

[[§453-8.2]] Disciplinary action. In disciplining a licensee in a proceeding under section 453-9, the board may impose one or more of the following actions:

- (1) Place the licensee on probation, including such conditions of probation as requiring observation of the licensee by an appropriate group or society of licensed physicians or surgeons.
 - (2) Suspend the license.
 - (3) Revoke the license.
 - (4) Limit the license by restricting the fields of practice in which the licensee may engage.
 - (5) Fine the licensee, including assessment against [him] the licensee of the costs of the disciplinary proceedings.
 - (6) Temporarily suspend the license for not more than thirty days without a hearing, when the board finds the practice of the licensee probably constitutes an immediate and grave danger to the public.
 - (7) Require further education or training or require proof of performance competency."
7. By amending subsection (b) of section 453-8.5 to read:

“(b) The membership of the advisory committee shall vary in number, depending on the level of expertise deemed necessary by the board in its review of the conduct of the physician in question. Each member of the committee shall serve on the committee until the investigation of the particular case for which [he] the member was designated a consultant has been concluded.”

8. By amending subsection (c) of section 453-8.7 to read:

“(c) The clerks of the respective courts of this State shall report to the board any judgment or other determination of the court which adjudges or finds that a physician is liable criminally or civilly for any death or personal injury caused by [his] the physician's professional negligence, error or omission in the practice of [his] one's profession, or [his] rendering of unauthorized professional services. The report shall be submitted to the board within ten days after the judgment is entered by the court.”

9. By amending section 453-11 to read:

“**§453-11 Recalcitrant witnesses; contempt.** If any person called before the board as a witness in any proceeding, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to [him] the individual by the board, a member thereof or the person whose license is sought to be revoked, limited, or suspended in the proceeding, or disobeys any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which such proceeding is held and the person shall be cited to appear before the circuit judge to show cause why [he] the individual should not be punished for contempt of court under section 710-1077.”

10. By amending section 453-14 to read:

“**§453-14 Duty of physician, surgeon, hospital, clinic, etc., to report wounds.** Every physician and surgeon attending or treating a case of knife wound, bullet wound, gunshot wound, powder burn, or any injury that would seriously maim, produce death, or has rendered the injured person unconscious, caused by the use of violence or sustained in a suspicious or unusual manner, or, whenever such case is treated in a hospital, clinic, or other institution, the manager, superintendent, or person in charge thereof, shall report such case to the chief of police of the county within which the person was attended or treated, giving the name of the injured person, description of the nature, type, and extent of the injury, together with other pertinent information which may be of use to the chief of police. As used herein, the term “chief of police” means the chief of police of each county and any of [his] the chief's authorized subordinates.

This section shall not apply to such wounds, burns, or injuries received by a member of the armed forces of the United States or of the State while engaged in the actual performance of duty.

Any person who fails to make the report called for herein within twenty-four hours after such attendance or treatment shall be fined not less than \$50 nor more than \$500.”

11. By repealing section 453-3.1.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.³

SECTION 3. This Act shall not affect rights matured, penalties incurred, or prosecutions begun prior to the effective date of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 21, 1983.)

Notes

1. "543-3" in original.
2. Underscoring missing.
3. Edited pursuant to HRS §23G-16.5.

ACT 93

S.B. NO. 184

A Bill for an Act Relating to the Practice of Osteopathy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 460-1, Hawaii Revised Statutes, is amended to read as follows:

"§460-1 License to practice. No person shall practice as an osteopathic physician or osteopathic physician and surgeon either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce [himself], either publicly or privately, [as] that the person is prepared or qualified to so practice, or shall append the letters ["DR."] "Dr." or the letters "D.O." to [his] the person's name, with the intent thereby to imply that [he] the person is a practitioner as an osteopathic physician or osteopathic physician and surgeon, without having a valid unrevoked license, obtained from the board of osteopathic examiners, in form and manner substantially as hereinafter set forth.

Nothing herein applies to any osteopathic physician or osteopathic physician and surgeon from another state who is in actual consultation with a licensed physician of this State if the physician from another state is licensed to practice in the state in which [he] the physician resides; provided, that the physician from another state shall not open an office, or administer treatment to any patient except in actual temporary consultation with a resident licensed physician of the State."

SECTION 2. Section 460-4, Hawaii Revised Statutes, is amended to read as follows:

"§460-4 Board; appointment, powers and duties. The governor shall appoint and may remove in the manner prescribed in section 26-34 a board of osteopathic examiners, consisting of five persons, three of whom shall be osteopathic physicians or osteopathic physicians and surgeons licensed under the laws of the State and two shall be public members.

The board [shall] may examine all applicants for licenses to practice as osteopathic physicians or as osteopathic physicians and surgeons. Examinations shall be held quarterly at a time and a place to be fixed by the board, of which examinations all applicants shall be notified in writing. Subject to chapter 91 and with the approval of the governor and the director of [regulatory agencies,] commerce and consumer affairs, the board may make, amend, and repeal all necessary

rules [and regulations] relating to the enforcement of this chapter and not inconsistent therewith. The members of the board shall serve without pay."

SECTION 3. Section 460-5, Hawaii Revised Statutes, is amended to read as follows:

"§460-5 Fees. (a) License fee. No applicant for a license to practice as an osteopathic physician or as an osteopathic physician and surgeon shall be examined until [he] the applicant has paid to the board of osteopathic examiners a fee of \$50.

(b) Renewal fees. Section 460-2 and any other provisions of this chapter to the contrary notwithstanding, there shall be paid to the board by every person licensed to practice as an osteopathic physician or an osteopathic physician and surgeon, biennially in each even-numbered year on or before June 30, a renewal fee in the amount of \$15. Failure of any licensee to pay any renewal fee shall work a forfeiture of [his] the license. Licenses forfeited by this section shall be reissued upon payment of a penalty of \$5 and all fees which the licensee would have paid if [he] the licensee had continuously renewed [his] the license.

(c) Disposition of fees. All fees collected by the board shall be deposited by the director of [regulatory agencies] commerce and consumer affairs with the director of finance to the credit of the general fund."

SECTION 4. Section 460-6, Hawaii Revised Statutes, is amended to read as follows:

"§460-6 Application for license. Each applicant for a license provided for in this chapter shall comply with the following requirements:

- (1) Make application on blank forms prepared and furnished by the board of osteopathic examiners;
- (2) Submit evidence verified on oath and satisfactory to the board that the applicant is eighteen years of age, or over, is of good moral character, and is a graduate of a school or college of osteopathy which is approved by the American Osteopathic Association; and
- (3) Designate on [his] the application whether [he] the applicant desires to practice as an osteopathic physician or as an osteopathic physician and surgeon."

SECTION 5. Section 460-7, Hawaii Revised Statutes, is amended to read as follows:

"§460-7 Osteopathic physician and surgeon distinguished. In addition to the requirements specified in section 460-6, the applicant for a license to practice as an osteopathic physician and surgeon shall submit satisfactory evidence to the board of osteopathic examiners:

- (1) That [he] the applicant has served an internship of at least one year in a hospital approved by the American Osteopathic Association and the American College of Osteopathic Surgeons, or the equivalent of the requirement as determined by the board, if the applicant graduated prior to and including 1942; and
- (2) In addition to the year of internship, certified evidence that [he] the applicant has served at least one year as an assistant to a qualified surgeon or surgeons."

SECTION 6. Section 460-8, Hawaii Revised Statutes, is amended to read as follows:

"§460-8 License issued. Each applicant who successfully passes the examination shall be entitled to a license. The following kinds of license shall be issued:

- (1) To practice as an osteopathic physician in accordance with the teachings of legally chartered and approved colleges of osteopathy in good standing, with the following rights, among others, to wit: to practice obstetrics; to practice surgery other than major surgery; and to administer anesthetics, antiseptics, germicides, parasitocides, biologicals, narcotics, and antidotes; or
- (2) To practice as an osteopathic physician and surgeon. This license confers unlimited surgical rights, as well as the right to practice in all other respects as an osteopathic physician."

SECTION 7. Section 460-9, Hawaii Revised Statutes, is amended to read as follows:

"§460-9 Foreign license. The board of osteopathic examiners, may, in its discretion, issue a license, without examination, to a practitioner who has been licensed in any country, state, territory, or province, upon the following conditions:

- (1) That the applicant is of good moral character;
- (2) That the applicant shall designate in [his] the application whether [he] the applicant desires to practice as an osteopathic physician, or as an osteopathic physician and surgeon;
- (3) That the requirements for a license in the country, state, territory, or province in which the applicant is licensed, are deemed by the board of osteopathic examiners to have been practically equivalent to the requirements for a license in force in the State at the date of the license; and
- (4) That the applicant has practiced [his] the profession as an osteopathic physician for three years prior to the date of [his] the application.

The board may also, in its discretion, accept the examination of the national board of examiners for osteopathic physicians and surgeons in lieu of its own examination and may issue a license to an applicant presenting a certificate from the national board of examiners for osteopathic physicians and surgeons upon the basis of the examination of the national board provided the applicant otherwise meets the requirements of the laws of this State.

The board may also, in its discretion, issue a license, without examination, to an osteopathic physician who is a graduate of an approved osteopathic college in good standing and who has passed an examination for admission into the medical corps of the United States army, United States navy, or the United States public health service.

The fee for [such] the licenses shall be \$100 and shall be paid to the board at the time of application. In case the application is not approved by the board the fee shall be returned to the applicant."

SECTION 8. Section 460-10, Hawaii Revised Statutes, is amended to read as follows:

"§460-10 Display license. Every holder of a license shall display it in a conspicuous place in [his] the licensee's principal place of business or employment."

SECTION 9. Section 460-14, Hawaii Revised Statutes, is amended to read as follows:

"§460-14 Notice of charges; hearing. In any proceedings before the board for the revocation or suspension of a license under this chapter, upon any of the grounds listed in section 460-12, the person whose license is sought to be revoked or suspended shall be given, pursuant to chapter 91, reasonable written notice of the charge or charges upon which the proceeding is based and of the time and place where a hearing will be held and shall be given reasonable opportunity to be heard and present evidence in [his] the person's defense.

In [any such] the proceeding, the board may subpoena, administer oaths to, and examine witnesses on any relevant matter in [such] the proceeding. The person whose license is sought in [such] the proceeding to be revoked or suspended shall be entitled to require the board or any member thereof to subpoena and to administer oaths to any witness or witnesses who may be able to present evidence relevant in [such] the proceeding, and shall be entitled to examine [any such] the witness and any other witness in [such] the proceeding. The circuit court of the circuit in which the proceeding is held shall have power to enforce by proper proceeding the attendance and testimony of witnesses in [such] the proceeding.

If any person called before the board as a witness in [such] the proceeding, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to [him] the person by the board, a member thereof or the person whose license is sought to be revoked or suspended in [such] the proceeding, or disobeys any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which [such] the proceeding is held and [such] the person shall be cited to appear before the circuit judge to show cause why [he] the person should not be punished for contempt of court under chapter 729.

Any person who wilfully and knowingly makes, under oath, any false statement in connection with any [such] proceeding before the board shall be guilty of perjury and shall be subject to the penalty prescribed by law for perjury. Whenever the board is satisfied that a witness has committed perjury in any proceeding before the board, it shall report the same to the prosecuting officer of the county in which the perjury took place, who shall prosecute the witness for perjury."

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved May 21, 1983.)

A Bill for an Act Relating to Pupil Transportation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-181, Hawaii Revised Statutes, is amended to read:

“[[§286-181]] Pupil transportation safety. (a) As used in this section “school vehicle” means any publicly or privately owned motor vehicle used to transport pupils to and from a school as defined in section 298-41 or school functions or school related events, except [a motor vehicle used for]:

- (1) [The] A motor vehicle used for transportation of pupils attending schools above the twelfth grade or pupils over eighteen years of age;
- (2) [The transportation of pupils in a] A privately owned passenger [car provided that] vehicle when such transportation is provided without compensation of any kind; or
- (3) [The] A motor vehicle used for transportation of pupils together with other passengers as a part of the regularly scheduled operation of a [common carrier.] mass transit system.

(b) The department of [education] transportation shall [have primary administrative responsibility and authority to determine,] adopt [and execute] safety rules and standards [and safety regulations] relating to [the transportation of pupils by a] school [vehicle.] vehicles, equipment, and drivers, including but not limited to:

- (1) School vehicle and school vehicle equipment design, construction, and identification;
- (2) School vehicle driver qualification and training as required by law;
- (3) School vehicle operation;
- (4) School vehicle maintenance and maintenance records;
- (5) Special school vehicle safety inspections; and
- (6) Criteria for passenger loading and unloading safety areas.

(c) The department of education shall adopt necessary rules [and regulations] governing[:] passenger conduct, passenger safety instruction, and disciplinary procedures for the enforcement of such rules applicable to passengers on school vehicles operated by or under contract with the State. Any pupil who fails to comply with any rule adopted pursuant to this subsection shall not be subject to section 286-10 but shall be subject to discipline in accordance with rules adopted by the department.

- (1) School vehicle and school vehicle equipment design, construction, and identification;
- (2) School vehicle driver training and qualification;
- (3) School vehicle passenger safety instruction;
- (4) School vehicle operation safety;
- (5) School vehicle passenger loading and unloading area safety;
- (6) School vehicle maintenance safety; and
- (7) Special school vehicle safety inspections.]

(d) Any person operating a school vehicle who fails to comply with any rule [or regulation] adopted pursuant to this section shall be fined not more than \$500 or imprisoned not more than six months, or both.

(e) [The executive officer of each county or his authorized representative shall be responsible for enforcement of the regulations adopted by the department of education pursuant to subsection (c). The police department of the county shall assist in the enforcement program exercising its authority as established under existing law which shall, wherever appropriate, be applicable to school vehicles for purposes of this section.] The director of transportation, or any officer, employee, or representative of the department of transportation appointed by the director shall be responsible for the enforcement of any safety rules and standards adopted pursuant to subsection (b). The director of transportation may request that the executive officers of each county and any other state agency having responsibility relative to pupil transportation provide additional enforcement of any rule adopted by the department of transportation.

SECTION 2. There is appropriated out of the state highway fund the sum of \$183,316, or so much thereof as may be necessary for the fiscal biennium 1983-85 to carry out the purpose of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the Department of Transportation. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1985 shall lapse into the state highway fund.

SECTION 3. Any rule or order adopted or issued under any law affected by this Act and in effect on the effective date of this Act and not in conflict with this Act shall continue in effect until amended, modified, suspended, or repealed.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 21, 1983.)

ACT 95

S.B. NO. 711

A Bill for an Act Relating to Practicing Psychologists.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 465-3, Hawaii Revised Statutes, is amended to read as follows:

"§465-3 Exceptions. (a) This chapter shall not apply to:

- (1) Any person teaching, lecturing, consulting, or engaging in research in psychology insofar as the activities are performed as part of or are dependent upon employment in a college or university;
- (2) Any person who performs any, or any combination, of the professional services described in section 465-1(5) under the direction of a person who is qualified under this chapter;

- (3) Any person employed by a local, state, or federal government agency whose psychologists must qualify for employment under government [certification] licensing or under civil service regulations but only at those times when that person is carrying out the functions of such governmental employment;
- (4) Any person who is a student of psychology, a psychological intern, or a resident in psychology preparing for the profession of psychology under supervision in a training institution or facility and who is designated by a title [such] as "psychological trainee" or "psychology student" which indicates [his] their training status; or
- (5) Any person who holds a license to practice medicine and surgery in the State.

(b) Nothing in this chapter shall in any way restrict any person from carrying on any of the activities in subsection (a), provided that such person does not offer psychological services as defined in this chapter except as such activities are incidental to his lawful occupational purpose.

(c) A person may use the title of industrial/organizational psychologist, provided that the person registers with the board, and:

- (1) Is professionally competent in the practice of industrial/organizational psychology;
- (2) Holds a doctoral degree from an accredited institution of higher education with training and education in industrial/organizational psychology, satisfactory to the board;

and does not engage in the practice of psychology as defined in section 465-1(5).

[(c)] (d) Nothing in this chapter shall be construed as permitting the administration of prescription of drugs, or in any way engaging in the practice of medicine as defined in the laws of the State."

SECTION 2. Section 465-7, Hawaii Revised Statutes, is amended to read as follows:

"§465-7 Requirements for [certification.] licensing. Every applicant for a [certificate] license as a psychologist shall submit evidence satisfactory to the board [of certification for practicing psychologists] that [he] the applicant [meets the requirements set forth in paragraphs (1) and (2) or (3) and (4) of this section]:

- (1) [He is of good moral character.] Is professionally competent and has demonstrated knowledge in the practice of psychology.
- (2) [He holds] Holds a doctoral degree from an accredited institution of higher education with training and education in the field of psychology adequate to the satisfaction of the board.
- (3) [Any person who holds] Holds a diplomate certificate in good standing granted by the American Board of Examiners in Professional Psychology.
- (4) [He passes such] Has passed an examination as may be prescribed by the board."

SECTION 3. Section 465-8, Hawaii Revised Statutes, is amended to read as follows:

“§465-8 [Certificates,] Licenses, issuance, display. Upon the board of certification for practicing psychologists forwarding to the director the name of each applicant who is entitled to a [certificate] license under this chapter and upon receipt of the prescribed fee, the director shall promptly issue to each [such] applicant a [certificate] license authorizing [him] the applicant to engage in the practice of psychology for a period of two years. The [certificate] license shall be in [such] the form as the director shall determine. A [certified] licensed psychologist shall display [his] the [certificate] license in a conspicuous place in [his] the psychologist’s principal place of business.”

SECTION 4. Section 465-10, Hawaii Revised Statutes, is amended to read as follows:

“§465-10 Reciprocity. The board of certification for practicing psychologists may recommend [certification] licensing without written or oral examination of an applicant who has not previously failed to pass an examination in psychology prescribed by the board and who submits evidence satisfactory to the board that the applicant:

- (1) [He holds] Holds a doctoral degree from an accredited institution of higher education with training and education in the field of psychology adequate to the satisfaction of the board; and
- (2) [He is] Is certified or licensed to practice psychology in another state deemed by the board to have standards equivalent to this chapter; or
- (3) [He is] Is a diplomate in good standing of the American Board of Examiners in Professional Psychology.

The director of [regulatory agencies] commerce and consumer affairs shall issue a [certificate] license under this section in the same manner and subject to the same conditions specified in section 465-8.”

SECTION 5. Section 465-11, Hawaii Revised Statutes, is amended to read as follows:

“§465-11 Renewals. Every [certificate] license issued under this chapter shall be renewed biennially on or before June 30 of each even-numbered year. Failure to renew a [certificate] license shall suspend the [certificate] license; provided that a psychologist whose [certificate] license has been suspended for failure to renew may reinstate the [certificate] license by payment of the renewal fee for the biennium in which the failure occurred, and provided that the period of suspension is not greater than one year. If [certification] licensing has lapsed for more than one year, the person may reapply for a [certificate] license in the manner prescribed in the previous sections of this chapter.”

SECTION 6. Section 465-13, Hawaii Revised Statutes, is amended to read as follows:

“§465-13 Denial, suspension, revocation of [certificate.] license, or probation of a license holder. The board of certification for practicing psychologists shall refuse to grant a [certificate] license to any applicant and may revoke or suspend any certificate, or may place a license, or may put a license holder on conditional probation, upon any of the following grounds:

- (1) Professional misconduct or gross carelessness or manifest incapacity in the practice of psychology;
- (2) Habitual use of narcotic drugs or any other substance which impairs the intellect and judgment to such an extent as to incapacitate the applicant or [certificate] license holder for the practice of psychology;
- (3) Habitual drunkenness;
- (4) Violation of this chapter[;] by the applicant within one year of the application, or violation of this chapter by a license holder any time the license is valid;
- (5) Any unethical practice of psychology as defined by the board in accordance with its own rules [and regulations].”

SECTION 7. Section 465-15, Hawaii Revised Statutes, is amended to read as follows:

“§465-15 **Prohibited acts; penalties.** No person shall:

- (1) Use in connection with [his] the person's name any designation tending to imply that [he] the person is a [certified] licensed psychologist unless [he] the person is duly [certified] licensed and authorized under this chapter.
- (2) Represent [himself] oneself as a [certified] licensed psychologist during the time [his certificate] the person's license issued under this chapter is suspended or revoked; [or]
- (3) Advertise or make a representation, either publicly or privately, as being a psychologist, licensed or otherwise, or as being able to perform professional services described in section 465-1(5), except as otherwise provided in this chapter, without having a valid unrevoked license or temporary permit issued by the director.

[(3)] (4) Otherwise violate this chapter.

Any person who violates this chapter shall be fined not more than \$500 or imprisoned not more than one year, or both.”

SECTION 8. Section 465-14.5, Hawaii Revised Statutes, is repealed.

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 10. This Act shall take effect upon its approval.

(Approved May 21, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Derelict Vehicle; Sale of Abandoned Vehicles by Towing Companies; and Motor Vehicle Repair Business.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 290-8, Hawaii Revised Statutes, is amended to read as follows:

"**[[§290-8]] Derelict vehicle.** A vehicle shall be deemed a derelict by the administrative head of the agency designated to carry out section 290-1 [under either one of the following conditions:

- (1) If the certificate of registration of the vehicle has expired and the registered and legal owner no longer resides at the address listed on the last certificate of registration on record with the county director of finance;
- (2) If the last registered and legal owner of record disclaims ownership;
- (3) If essential major parts have been removed so as to render the vehicle inoperable, and the vehicle identification numbers, license number plates and other means of identification have been removed so as to nullify efforts to locate or identify the registered and legal owner; or
- (4) If the vehicle registration records of the county director of finance contain no record that the vehicle has ever been registered in the county.]

if major parts have been removed so as to render the vehicle inoperable and one of the following conditions exists:

- (1) The vehicle is registered for the current registration period and the registered and legal owners no longer reside at the addresses on record with the county director of finance;
- (2) The vehicle has been registered for the current or previous registration period and the registered and legal owners disclaim ownership;
- (3) The vehicle identification number and license plates have been removed so as to nullify efforts to locate or identify the current registered and legal owners;
- (4) The vehicle has not been registered for the past two registration periods; or
- (5) The vehicle registration records of the county director of finance contain no record that the vehicle has ever been registered in the county.

Prior to authorizing the removal of a derelict vehicle, the administrative head of the agency designated to carry out section 290-1 must notify the county chief of police."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 21, 1983.)

SECTION 1. The legislature finds that Article VII, section 6, of the Constitution of the State of Hawaii requires the legislature to provide a tax refund or tax credit when certain factors are met. The legislature finds that these factors have been met for the third year in a row and that the legislature is constitutionally required to give a tax credit or refund. The legislature is concerned that unlike prior years, the State may be facing a deficit situation towards the end of the 1983-1984 fiscal year and that to give back money at a time like this may not be in the best interests of the State, but the legislature finds that this quixotic act is necessary due to the constitutional mandate.

It is the purpose of this Act to provide for such income tax credit to satisfy constitutionally mandated requirements.

SECTION 2. (a) In addition to the excise tax credit allowed under section 235-55.5, Hawaii Revised Statutes, and in addition to any other credit allowed under chapter 235, Hawaii Revised Statutes, there shall be allowed each resident individual taxpayer who qualifies under section 235-55.5(a), Hawaii Revised Statutes, a general income tax credit of \$1 which shall be deducted from income tax liability computed under chapter 235, Hawaii Revised Statutes. The general income tax credit of \$1 shall be multiplied by the number of qualified exemptions as defined in section 235-55.5(c), Hawaii Revised Statutes, to which the taxpayer is entitled, regardless of adjusted gross income. Section 235-55.5(c), Hawaii Revised Statutes, to the contrary notwithstanding, such qualified exemption shall have been a resident of the State as defined in section 235-1, Hawaii Revised Statutes, for at least nine months whether or not such qualified resident was physically in the State for nine months. For the purposes of this section multiple exemptions shall not be granted for this credit because of age, or deficiencies in vision, hearing, or other disability. The general income tax credit allowed under this section shall be deducted from income tax liability for the taxable year 1983. Section 235-55.5(d) and (e), Hawaii Revised Statutes, is applicable to this section and incorporated herein to the extent not in conflict with this section.

(b) The credit under this section shall not be available to (1) any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full taxable year; (2) any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full taxable year; or (3) any misdemeanor who has been committed to jail and has been physically confined for the full taxable year.

(c) This section implements the provisions of Article VII, Section 6, of the State of Hawaii Constitution enacted by the 1978 Constitutional Convention, which states as follows:

"DISPOSITION OF EXCESS REVENUES

Section 6. Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 21, 1983.)

ACT 98

S.B. NO. 1075

A Bill for an Act Relating to Public Utilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 269-12, Hawaii Revised Statutes, is amended to read:

"§269-12 [Notice of Hearings.] Notices. (a) Whenever an investigation is undertaken by the public utilities commission, reasonable notice in writing of such fact and of the subject or subjects to be investigated shall be given to the public utility concerned, and when based upon complaints made to it as prescribed in section 269-7, a copy of the complaint, and a notice in writing of the date and place fixed by the commission for beginning the investigation, shall be served upon the public utility and the complainant not less than two weeks before the date designated for the hearing.

(b) Any notice provided pursuant to section 269-16(b), shall plainly state the rate, fare, charge, classification, schedule, rule, or practice proposed to be established, abandoned, modified, or departed from and the proposed effective date thereof and shall be given by filing the notice with the commission and keeping it open for public inspection.

(c) Any public hearing held pursuant to section 269-16(c), shall be an advertised public hearing or hearings on the island on which the utility is situated. Notice of the advertised hearing, with the purpose thereof and the date, time, and place at which it will open, shall be advertised not less than once in each of three weeks in a newspaper published in and of general circulation in the State, the first publication being not less than twenty-one days before the public hearing and the last publication being not more than two days before the scheduled hearing. The applicant or applicants shall notify their consumers or patrons of the proposed change in rates and of the time and place of the public hearing not less than one week before the date set, the manner and the fact of notification to be reported to the commission before the date of hearing. The commission may use such additional media as radio or television to advise the public if it finds it necessary to do so."

SECTION 2. Section 269-16, Hawaii Revised Statutes, is amended as follows:

1. By amending the title to read:

"§269-16 [Regulate rates, etc., hearings, notice of hearings, appeals.] Regulation of utility rates; ratemaking procedures."

2. By amending subsection (a) and (b) to read:

"(a) All rates, [fare,] fares, charges, classifications, schedules, rules, and practices made, charges, or observed by any public utility, or by two or more public utilities jointly, shall be just and reasonable and shall be filed with the public utilities commission. The rates, fares, classifications, charges, and rules of every public utility shall be published by the public utility in such manner as the public utilities commission may require, and copies furnished to any person on request.

To the extent the contested case proceedings referred to in chapter 91 are required in any rate proceeding in order to ensure fairness and to provide due process to parties which may be affected by rates approved by the commission, such

evidentiary hearings shall be conducted expeditiously and shall be conducted as a part of the ratemaking proceeding.

(b) No rate, fare, charge, classification, schedule, rule, or practice, other than one established pursuant to an automatic rate adjustment clause previously approved by the commission, shall be established, abandoned, modified, or departed from by any public utility, except after thirty days' notice as prescribed in section 269-12(b) to the commission and prior approval by the commission for any increases in rates, fares, or charges. [The notice herein provided for shall plainly state the rate, fare, charge, classification, schedule, rule, or practice proposed to be established, abandoned, modified, or departed from and the proposed effective date thereof and shall be given by filing the notice with the commission and keeping it open for public inspection.] The commission may, in its discretion and for good cause shown, allow any rate, fare, charge, classification, schedule, rule, or practice to be established, abandoned, modified, or departed from upon notice less than that provided for [herein.] in section 269-12(b). A contested case hearing shall be held in connection with any increase in rates and such hearing shall be preceded by a public hearing as prescribed in section 269-12(c) at which the consumers or patrons of the public utility may present testimony to the commission concerning the increase. [The public hearing shall be an advertised public hearing or hearings on the island on which the utility is situated. Notice of the advertised hearing, with the purpose thereof and the date, time, and place at which it will open, shall be advertised not less than once in each of three weeks in a newspaper published in and of general circulation in the State, the first publication being not less than twenty-one days before the public hearing and the last publication being not more than two days before the scheduled hearing. The applicant or applicants will notify their consumers or patrons of the proposed change in rates and of the time and place of the public hearing not less than one week before the date set, the manner and the fact of notification to be reported to the commission before the date of hearing. The commission is authorized to use such additional media as radio or television to advise the public if it finds it necessary to do so.] The commission, upon notice to the public utility, may suspend the operation of all or any part of the proposed rate, fare, charge, classification, schedule, rule, or practice or any proposed abandonment or modification thereof or departure therefrom and after a hearing by order regulate, fix, and change all such rates, fares, charges, classifications, schedules, rules, and practices, so that the same shall be just and reasonable, and prohibit rebates and unreasonable discrimination between localities, or between users or consumers, under substantially similar conditions, regulate the manner in which the property of every public utility is operated with reference to the safety and accommodation of the public, prescribe its form and method of keeping accounts, books, and records, and its accounting system, regulate the return upon its public utility property, the incurring of indebtedness relating to its public utility business, and its financial transactions, and do all things in addition which are necessary and in the exercise of such power and jurisdiction, all of which as so ordered, regulated, fixed, and changed shall be just and reasonable, and such as shall provide a fair return on the property of the utility actually used or useful for public utility purposes."

SECTION 3. Section 269-11, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved May 21, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 99

S.B. NO. 362

A Bill for an Act Relating to the Enforcement Program of the Department of Land and Natural Resources.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 199-7, Hawaii Revised Statutes, is amended to read as follows:

“**[[§199-7]] Seizure and forfeiture of [equipment.] certain property.** Any equipment, article, [or] instrument, aircraft, vehicles, or vessels, used or possessed in violation of title 12 and rules [and regulations promulgated] adopted thereunder, is declared to be a public nuisance and subject to seizure by any enforcement officer of the department of land and natural resources or by any police officer; and upon conviction of the person having possession or control of such equipment, article, [or] instrument, aircraft, vehicles, or vessels, for a violation of any provision of [such] the laws or rules [and regulations], the equipment, article, [or] instrument, aircraft, vehicles, or vessels, may be declared by the court to be forfeited to the State[.] in accordance with the procedure set forth in the Hawaii Penal Code. Any property so forfeited shall be turned over to the department of land and natural resources and destroyed, if illegal, or otherwise shall be sold at public auction in the judicial circuit in which it was seized, the auction to be held once annually at a place and time to be designated by the department and notice thereof to be published in a newspaper of general circulation within the judicial circuit at least once before the auction, the first publication to be not less than twenty days prior to the auction. The auction shall be conducted by a person other than an employee of the department but designated by the department.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1983.)

ACT 100

S.B. NO. 669

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 322, Hawaii Revised Statutes, is amended by adding two new sections to part I to be appropriately designated and to read as follows:

“§322- Civil penalties. (a) Any person who violates this part or any rule adopted by the department of health to implement this part shall be fined not more than \$10,000 for each separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.

(b) The director of health may impose by order the civil penalty specified in this section. Factors to be considered in imposing the civil penalty include the nature and history of the violation and of any prior violation, and the opportunity, difficulty, and history of corrective action. It is presumed that the violator's economic and financial conditions allow payment of the penalty and the burden of proof to the contrary is on the violator. For any judicial proceeding to recover the civil penalty imposed, the director of health need only show that notice was given, a hearing was held, or the time granted for requesting a hearing has expired without such a request, the civil penalty was imposed, and that the penalty remains unpaid.

(c) In addition to the penalty under subsection (a), the director of health may order the person who has committed the violation to correct the violation at the person's own expense.

§322- Injunctive relief. The director of health may institute a civil action in any court of competent jurisdiction for injunctive relief to prevent any violation of this part or any rule adopted to implement this part. The court shall have powers to grant relief in accordance with the Hawaii rules of civil procedure.”

SECTION 2. Chapter 328, Hawaii Revised Statutes, is amended by adding two new sections to part I to be appropriately designated and to read as follows:

“328- Civil penalties. (a) Any person who violates this part or any rule adopted by the department pursuant to this part shall be fined not more than \$10,000 for each separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.

(b) In addition to any other administrative or judicial remedy provided by this part, or by rules adopted pursuant to this part, the director may impose by order the civil penalty specified in this section. Factors to be considered in imposing the civil penalty include the nature and history of the violation and of any prior violation, and the opportunity, difficulty, and history of corrective action. For any judicial proceeding to recover the civil penalty imposed, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing has expired without such a request, the civil penalty was imposed, and that the penalty remains unpaid.

§328- Injunctive relief. The director may institute a civil action in any court of competent jurisdiction for injunctive relief to prevent any violation of this part or any rule adopted to implement this part. The court shall have powers to grant relief in accordance with the Hawaii rules of civil procedure.”

SECTION 3. Section 321-18, Hawaii Revised Statutes, is amended to read as follows:

“§321-18 Penalty. [Every] Except when another penalty is provided, every person who violates any rule [or regulation] of the department, after the same has been adopted, as provided in section 321-10, shall be [fined not more than \$500, or imprisoned not more than one year, or both.] guilty of a misdemeanor.”

SECTION 4. Section 328-1, Hawaii Revised Statutes, is amended by amending the definition of “food” to read:

“(3) “Food” means (A) articles used for food or drink [for man or animals,] by humans, dogs, or cats, (B) chewing gum, and (C) articles used for components of any such article;”

SECTION 5. Section 328-8, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) [All regulations and their amendments adopted by the Federal Food, and Drug Administration as of [June 9, 1977] under the authority of the Federal Food, Drug, and Cosmetic Act applicable to the General Regulations Relating to Definitions and Standards for Food (21 CFR Part 10), Standards of Quality for Foods for Which There are No Standards of Identity (21 CFR Part 11), Color Additives (21 CFR Part 8), Regulations for the Enforcement of the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act (21 CFR Part 1), Tolerances and Exemptions From Tolerances for Pesticides Chemicals in or on Raw Agricultural Commodities (40 CFR Part 180), Regulations on Food Additives (21 CFR Part 121), Food for Special Dietary Uses (21 CFR Part 125), Human Foods, Current Good Manufacturing Practices (21 CFR Part 128), Fish and Seafood Products (21 CFR Part 128a), Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers (21 CFR Part 128b), Processing and Bottling of Bottled Drinking Water (21 CFR Part 128d); Cosmetic Labeling (21 CFR Part 701), are adopted for the use of the department; provided that when in the director’s judgment such action will promote honesty and fair dealing in the interest of consumers, the director may establish such additional rules as may be necessary. All such regulations adopted or amended after [June 9, 1977] shall be adopted under chapter 91.] The director may establish rules as necessary for the enforcement of this part, including but not limited to, the establishment and enforcement of tolerance levels. The rules shall be adopted pursuant to chapter 91.”

SECTION 6. Section 322-7, Hawaii Revised Statutes, is repealed.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 8. This Act shall take effect upon its approval.

(Approved May 24, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 359-151, Hawaii Revised Statutes, is amended to read:

"§359-151 [Housing] Hawaii development revolving fund created. (a) There shall be a revolving fund to be known as the Hawaii development revolving fund [for housing] which shall be administered by the Hawaii housing authority. All repayments [or] of principal and interest on loans made by the Hawaii housing authority from the fund shall be placed in the Hawaii development revolving fund [for housing] to be used for the purposes of this section.

(b) The Hawaii housing authority may make loans, either before or after final subdivision approval, to cover planning, development, and initial costs, including the costs of options, agreements of sale, and down payments, of commencing projects to provide [non-profit,] low [and middle] or moderate cost housing through [the use of federal funds.] government assistance programs.

(c) In managing the fund, the authority may cooperate with other public and private nonprofit agencies or [individuals] entities and may enter into loan agreements with them. The necessity for the extent and nature of security required for a loan shall be determined by the authority. The security may include, but is not limited to, a borrowing resolution of the [non-profit] nonprofit entity.

The foregoing powers are subject, however, to the following restrictions and limitations:

- (1) No single loan shall exceed two per cent of the project cost;
- (2) The loan shall be repaid with simple interest in the amount of six per cent per year;
- (3) The [monies] moneys loaned shall be used only for the planning, development, and initial costs of commencing projects to provide [non-profit] nonprofit low [and middle] or moderate cost housing.

(d) The authority [may], in accord with chapter 91 [make], may adopt rules [and regulations] to carry out the purposes of this section.

(e) For the purposes of this section, "government assistance programs" means housing programs qualified by the authority and administered or operated by the authority or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise. For the purposes of this section, a "nonprofit entity" is a corporation, association, or other duly chartered organization registered with the State, which organization has received charitable status under the Internal Revenue Code or as defined by rules adopted by the authority."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1983.)

ACT 102

H.B. NO. 242

A Bill for an Act Relating to Use of Credit Cards for Hospital Charges.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 323-3.5, Hawaii Revised Statutes, is amended to read:

“[§323-3.5] Use of credit cards for hospital charges. Except as hereinafter provided, and notwithstanding any other law to the contrary, [All] all charges due and owing to any hospital operated by the State may be paid by means of credit cards as may be deemed acceptable therefor by the comptroller. Such use of credit cards shall be exempt from section 40-35. A service fee may be paid by the department of health for the use thereof.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1983.)

ACT 103

H.B. NO. 328

A Bill for an Act Relating to General Excise Tax.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 237-40, Hawaii Revised Statutes, is amended by amending subsection (d) to read:

“(d) Refunds. [No credit or refund shall be allowed more than three years after the annual return was filed, or in any case of payment of tax without the filing of an annual return, more than three years after payment of tax, unless a claim for the credit or refund was filed within the period.] No credit or refund shall be allowed for any tax imposed by this chapter, unless a claim for such credit or refund shall be filed within three years after the annual return was filed, or in any case of payment of tax without the filing of an annual return, within three years after payment of tax, or within three years of the date prescribed for the filing of the annual return, whichever is later. The limitation shall not apply to a credit or refund pursuant to an appeal, provided for by section 237-42.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act upon its approval shall apply to taxable years beginning after December 31, 1982.

(Approved May 24, 1983.)

A Bill for an Act Relating to Industrial Loan Companies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 408-15, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) Other charges. In addition to the interest, discount, or other charges permitted by this section, an industrial loan company shall also have power to collect in advance or otherwise from the borrower any of the following charges:

- (1) The actual taxes and fees charged by a governmental agency for recording, filing, or entering of record, any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments, of or on any real or personal property which constitutes all or a portion of the security on a contract.
- (2) Appraisal fees, and abstractors’ fees, or title insurance actually paid to third parties, no portion of which fees inures to the benefit of the company.
- (3) Premiums actually paid for insuring real and personal property pledged as security on a contract, and premiums for insurance on the life or disability or both of the borrower, provided the insurance is obtained from insurance companies authorized to do and doing business in the State under the laws thereof and provided the borrower, if the property is adequately insured for the amount of the loan, shall not be required to substitute other insurance therefor upon the property or to take out additional insurance thereon.
- (4) Attorney’s fees, if provided for in the contract, and costs of court, incurred in the collection of any contract in default.
- (5) A charge not exceeding \$10 upon the transfer of any equity under a chattel mortgage or a conditional sale contract, or upon any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or upon any of such conveyances of any real or personal property which constitutes all or a portion of the security on a contract.
- (6) Loan fees or “points” on all loans primarily secured by an interest in real property where the interest rate is computed in accordance with subsection (j); provided that the total finance charge payable by the borrower in connection with any such loan shall include the amount of any such loan fees or “points” and shall not exceed an annual percentage rate (as defined in the Federal Truth In Lending Act and the regulations of the Federal Reserve Board promulgated thereunder) equal to the maximum rate of interest permissible under subsection (j).
- (7) Any reasonable attorneys’ fees incurred for the preparation of any contract, or any promissory note or any obligation evidencing an

indebtedness, or any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments of or on any real or personal property which constitutes all or a portion of security on a contract, or any other documents relating to a contract.

- (8) Actual charges for credit reports and other credit screening expenses incurred for loans of \$5,000 or more, provided that such charges shall not exceed \$15 per applicant and such charges are paid to third parties and no portion of such charges inures to the benefit of the company.
- (9) A prepayment charge equal to a sum measured by six months of interest at the loan rate, on any amount voluntarily, and not pursuant to any acceleration provision, prepaid in any twelve-month period in excess of twenty per cent of the original principal amount of any loan contracted for five years or more; provided this prepayment charge may be charged only on amounts prepaid within five years of the date of the contract and may be charged only on loans primarily secured by an interest in real property where the interest rate is computed in accordance with subsection (j). The prepayment charge shall not apply to adjustable or variable rate loans and open-end loans."

SECTION 2. Statutory material to be repealed is bracketed.¹ New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1983.)

Note

- 1. No bracketed material.

ACT 105

H.B. NO. 594

A Bill for an Act Relating to the Employees Retirement System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 88-119, Hawaii Revised Statutes, is amended to read as follows:

"§88-119 Investments. Investments may be made in:

- (1) Real estate loans and mortgages. Obligations (as defined in section 431-286) of any of the following classes:
 - (A) Obligations secured by mortgages of [non-profit] nonprofit corporations desiring to build multi-rental units (ten units or more) subject to control of the government for occupancy by families displaced as a result of government action.
 - (B) Obligations secured by mortgages insured by the federal housing administration.

- (C) Obligations for the repayment of home loans made under the Servicemen's Readjustment Act of 1944 or under Title II of the National Housing Act.
- (D) Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple, provided that the amount of the obligation shall not at the time investment is made therein exceed seventy-five per cent of the value of the real estate and improvements mortgaged to secure it, except that if the obligation is for an amount of \$75,000 or less, the amount of the obligation shall not exceed eighty per cent of the real estate and improvements mortgaged to secure it, and except that the amount of the obligation at the time investment is made therein may exceed seventy-five per cent but no more than ninety per cent of the value of the real estate and improvements mortgaged to secure it, provided that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than seventy-five per cent of the value of the real estate and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to seventy-five per cent of the market value of the real estate and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board of trustees. Real estate shall not be deemed to be encumbered within the meaning of this subparagraph by reason of the existence of any of the restrictions, charges, or claims described in section 431-293(a).
- (E) Other obligations secured by first mortgages of leasehold interests in improved real estate, provided that (i) each such leasehold interest at such time shall have a current term extending at least two years beyond the stated maturity of the obligation it secures, and (ii) the amount of the obligation shall not at the time investment is made therein exceed seventy-five per cent of the value of the respective leasehold interest and improvements, except that if the obligation is for an amount of \$75,000 or less, the amount of the obligation shall not exceed eighty per cent of the value of the respective leasehold interest and improvements, and except that the amount of the obligation, at the time investment is made therein, may exceed seventy-five per cent but no more than ninety per cent of the value of the leasehold interest and improvements mortgaged to secure it, provided that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer

should be sufficient to reduce the system's exposure to not more than seventy-five per cent of the value of the leasehold interest and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to seventy-five per cent of the market value of the leasehold interest and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board of trustees.

- (F) Obligations for the repayment of home loans guaranteed by the department of Hawaiian home lands pursuant to section 214(b) of the Hawaiian Homes Commission Act, 1920.
- (G) Obligations secured by second mortgages on improved real estate for which the mortgagor procures a second mortgage on the improved real estate for the purpose of acquiring the leaseholder's fee simple interest in the improved real estate, provided that any prior mortgage does not contain provisions which might jeopardize the security position of the retirement system or the borrower's ability to repay the mortgage loan.

The board of trustees may retain such real estate, including leasehold interests therein, as it may acquire by foreclosure of mortgages or in enforcement of security, or as may be conveyed to it in satisfaction of debts previously contracted, provided that all such real estate, other than leasehold interests, shall be sold within five years after acquiring the same,¹ subject to extension by the governor for additional periods not exceeding five years each and all such leasehold interests shall be sold within one year after acquiring the same,¹ subject to extension by the governor for additional periods not exceeding one year each.

- (2) Government obligations, etc. Obligations of any of the following classes:
 - (A) Obligations issued or guaranteed as to principal and interest by the United States or by any state thereof, or by the Dominion of Canada or by any province thereof, or by any municipal or political subdivision or school district of any of the foregoing, provided that principal of and interest on such obligations are payable in currency of the United States.
 - (B) Revenue bonds whether or not permitted by any other provision hereof of the State or any municipal or political subdivision thereof including the board of water supply of the city and county of Honolulu, and street or improvement district bonds of any district or project in the State.
 - (C) Obligations issued or guaranteed by any federal home loan bank including consolidated federal home loan bank obligations, the Home Owner's Loan Corporation, the Federal National Mortgage Association, or the Small Business Administration.

- (3) Corporate obligations. Obligations of any corporation created or existing under the laws of the United States or of any state or district thereof, and qualified under any of the following:
 - (A) Fixed interest-bearing obligations, if the average annual net earnings of the obligor or guarantor available for its fixed charges for a period of five fiscal years next preceding the date of the investment have equalled at least one hundred [and] fifty per cent of its average annual fixed charges applicable to the period and if its net earnings for the last year of the period have equalled at least one hundred [and] fifty per cent of its fixed charges for such year.
 - (B) Fixed interest-bearing obligations secured by assignment of a lease or leases, or the rentals payable thereunder, of real or personal property (including, without limitation, charters of vessels) to a corporation created or existing under the laws of the United States or of any state or district thereof, provided that (i) the fixed rentals assigned shall be sufficient to repay the principal of and interest on the obligation within the unexpired term of the lease, exclusive of the term which may be provided by any option of renewal, and (ii) the net earnings of the corporation shall meet the requirements described in subparagraph (A).
 - (C) Fixed interest-bearing obligations secured by rights or assignment of rights under a contract (including, without limitation, a contract for the sale of products, materials, supplies, or other property, or for the furnishing of transportation or services) with a corporation created or existing under the laws of the United States or of any state or district thereof, provided that (i) the rights securing such obligations shall include the right to receive payments sufficient to repay the principal of and interest on the obligations within the unexpired term of the contract, and (ii) the net earnings of the corporation shall meet the requirements described in subparagraph (A).
- As used in this paragraph, the terms "fixed charges" and "net earnings available for fixed charges" shall have the meanings and application ascribed thereto in sections 431-286 and 431-287.
- (4) Preferred and common stocks. Shares of preferred or common stock of any corporation created or existing under the laws of the United States or of any state or district thereof, provided that the book value of the total investment in such stocks shall at no time exceed forty per cent of the total book value of all investments of the system.
 - (5) Obligations eligible by law for purchase in the open market by federal reserve banks.
 - (6) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, by the Inter-American Development Bank or by the Asian Development Bank.
 - (7) Obligations secured by collateral consisting of any of the securities or stock listed above and worth, at the time the investment is made, at

least fifteen per cent more than the amount of the respective obligations.

- (8) Insurance company obligations. Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in Hawaii, including its separate accounts, and whether the investments allocated thereto are comprised of stocks or other securities or of real or personal property or interests therein.
- (9) Other securities. Securities and stock in which in the informed opinion of the board of trustees it is prudent to invest funds of the system, whether or not the securities or stock are expressly authorized by or qualify under the foregoing paragraphs, and notwithstanding any limitation of any of the foregoing paragraphs (including paragraph (4)); provided that the total book value of investments under this paragraph shall at no time exceed ten per cent of the total book value of all investments of the system."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1983.)

Note

1. Underscoring missing.

ACT 106

H.B. NO. 1119

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations, and others for overpayment of taxes, or on account of other claims for refunds, reimbursements, or other payments, against the State in the amount set opposite their names:

	Division	Amount
REFUND OF TAXES:		
Arinaga, Esther K. (Real Property)	First	\$ 734.40
Fukuda, Shiro (Real Property)	First	233.75

ACT 106

Fernandez, Rosita G. aka Galanto, Rose C. (Real Property)	First	774.17
Sakamoto, Mitsuru (Real Property)	First	\$ 551.64
Tamaru, Shizuo (Real Property)	First	367.20
Thompson, John Scott and wife Marion (Real Property)	First	3,983.77

JUDGMENTS AGAINST THE STATE AND SETTLEMENT CLAIMS:

	Amount	
Lewis, Mary Lee Civil No. 2123, Fifth Circuit Date of Judgment: 6/8/82 Amount of Judgment:	\$28,555.50	
4% interest:	1,211.07	\$29,766.57
King, Irvin Civil No. 57796, First Circuit Date of Judgment: 3/8/82 Amount of Judgment:	\$ 7,150.00	
4% interest:	353.33	\$ 7,503.33
Sotomura, Joseph Yuki and Grace Fumiye Civil No. 75-0067, U.S.D.C. Date of Judgment: 5/5/80 Amount of Judgment:	\$27,723.25	
8% interest:	6,993.85	\$34,717.10
Sotomura, Joseph Yuki and Grace Fumiye Civil Nos. 80-4488 and 80-4498 Ninth Circuit Court of Appeals Date of Judgment: 6/7/82 Amount of Judgment:	\$25,158.86	
10% interest:	2,674.42	\$27,833.28
Nordeck, Anne H. Civil No. 55394, First Circuit Date of Judgment: 2/1/80 Amount of Judgment:	\$33,789.37	
4% interest:	4,610.17	\$38,399.54

Waialua Sugar Company, Inc. Civil No. 72961, First Circuit Date of Judgment: 9/30/82 Amount of Judgment:	\$ 6,500.00	
4% interest:	194.47	\$ 6,694.47
Hotchkiss, John W. and Jacqueline Barber Civil No. 2442, Fifth Circuit Date of Judgment: 2/17/83 Amount of Judgment:	\$ 5,000.00	
4% interest:	89.86	\$ 5,089.86
Travis, et al. v. Jean King, etc., et al. Civil No. 81-0433, U.S. District Court Date of Judgment: 11/1/82 Amount of Judgment:	\$ 7,299.10	
10% interest:	543.93	\$ 7,843.03
Kramer, Jerry Dixon and Irene Toshiko Maruya Civil No. 6395, Third Circuit Date of Stipulation for Dismissal: 3/11/83 Amount of Settlement:		\$10,000.00

MISCELLANEOUS CLAIMS:

	Amount
Fukumoto Keith M. Reimbursement for missing Sanyo Stereo Radio/Cassette Recorder Model M-X720 (Rationale: Personal property but used in teaching to benefit of State)	\$ 288.08
Estate of Chun Wah Kwock, deceased. Reissuance of outlawed warrant, S.E. 12658-2	\$ 28.93
Valerie T. Manner Reissuance of State of Hawaii Payroll Clearance Fund Escheated Warrant No. P. 144505, dated November 15, 1967, for salary as Special Education Teacher at Waimano Training School and Hospital. (Warrant was issued in claimant's former name Tamaye T. Manner.)	\$ 110.42

SECTION 2. The sums hereinabove appropriated shall be paid to the respective persons and in the several amounts hereinabove set out upon warrants issued by the comptroller of the State: (1) upon vouchers approved by the director of taxation as to claims for overpayment of taxes and (2) upon vouchers approved by the attorney general as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State and settlements of claims, payment of interest, at the rate stated above, shall be limited to the period from the date of judgment or court approval of the settlement to the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, and all unexpended balances thereof after payment shall lapse into the general fund of the State as of the close of business on June 30, 1984.

SECTION 4. If any portion of this Act or its application to any circumstance or person is held invalid for any reason, the remainder thereof shall not be affected thereby.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 24, 1983.)

ACT 107

H.B. NO. 1128

A Bill for an Act Relating to the Mooring of Commercial Vessels in Small Boat Harbors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 266-21, Hawaii Revised Statutes, is amended to read:

"§266-21 Purpose and use of state small boat harbors. State small boat harbors are constructed, maintained, and operated for the primary purpose of promoting recreational boating activities and the landing of fish. For the purpose of this section "recreational boating activities" means the utilization of watercraft for sports, hobbies, or pleasure. To implement this purpose, only vessels in good material and operating condition that are regularly navigated beyond the confines of the small boat harbor, and which are used for recreational activities or the landing of fish shall be permitted to moor, anchor, or berth at such harbor or use any of its facilities. Vessels used for purposes of recreational boating activities which are also the principal habitation of the owner shall occupy no more than fifteen per cent of the respective total moorage space available as of July 1, 1976 at the Ala Wai and Keehi boat harbors. [Furthermore,] Notwithstanding the primary purpose of small boat harbors, moorage for commercial vessels is permitted in a state small boat harbor [in cases], except that on Oahu moorage for commercial vessels is permitted in a state small boat harbor only where there is no commercial harbor within a distance of three statute miles. The department may adopt rules [and regulations] pursuant to chapter 91 to further implement this section."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.
(Approved May 24, 1983.)

ACT 108

H.B. NO. 1129

A Bill for an Act Relating to Concession Bid Deposits.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 102-6, Hawaii Revised Statutes is amended to read:

"§102-6 Deposits of legal tender, etc., to accompany bid. All bids shall be accompanied by a deposit of legal tender, or a certificate of deposit, cashier's check or certified check on a bank that is insured by the Federal Deposit Insurance Corporation, in a sum not less than five per cent of the amount bid, payable at sight to the officer advertising for tenders; provided that when the amount bid exceeds \$50,000, the legal tender, certificate of deposit, cashier's check or certified check shall be in a sum not less than \$2,500 plus two per cent of the amount in excess of \$50,000. [A certificate of deposit, cashier's check, or certified check may be utilized only to a maximum of \$40,000.]

A bid deposit for a bid requiring a deposit [in excess of \$40,000 shall only] may be in the form of [legal tender or] a surety bond conforming to the requirements of section 103-31."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.
(Approved May 24, 1983.)

ACT 109

H.B. NO. 1262

A Bill for an Act Relating to Special Purpose Revenue Bonds for Construction of an Ethanol Plant.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. The department of budget and finance is authorized to issue special purpose revenue bonds in a total amount not to exceed \$10,000,000 for the construction of an ethanol plant to be built by Hawaiian Development Company.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part IV, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist processing enterprises.

SECTION 4. This Act shall take effect upon its approval.
(Approved May 24, 1983.)

A Bill for an Act Relating to the Compensation of Certain Persons Under the Criminal Injuries Compensation Act and Providing Appropriations Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of compensating the following named persons pursuant to Chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act:

Case No. 78-228	470.52
Case No. 79-196	250.00
Case No. 79-347	50.00
Case No. 80-319	1,716.09
Case No. 80-431	4,913.27
Case No. 80-434	3,291.26
Case No. 80-434 (Kona Hospital)	694.30
Case No. 80-434 (Hawaii Emergency Physicians Associates, Inc.)	161.20
Case No. 80-434 (Dr. William Cooper)	81.60
Case No. 80-434 (Dr. Jeffrey McDevitt)	120.54
Case No. 81-6	5,000.00
Case No. 81-28	375.00
Case No. 81-40	4,818.14
Case No. 81-40 (Straub Clinic & Hospital, Inc.)	2,038.97
Case No. 81-40 (Anthony Pantages - Attorney)	50.00
Case No. 81-41	2,000.00
Case No. 81-61	476.66
Case No. 81-89	758.75
Case No. 81-89 (Dr. Bennett Lau)	222.81
Case No. 81-126	150.00
Case No. 81-129	150.00
Case No. 81-129 (G.N. Wilcox Memorial Hospital & Health Center)	147.75
Case No. 81-138	100.00
Case No. 81-149	700.00
Case No. 81-149 (Hilo Hospital)	82.65
Case No. 81-150	500.00
Case No. 81-151	500.00
Case No. 81-152	941.80
Case No. 81-201	186.21
Case No. 81-201 (Straub Clinic & Hospital, Inc.)	2,012.96
Case No. 81-227	1,528.11
Case No. 81-227 (G.N. Wilcox Memorial Hospital & Health Center)	249.66

Case No. 81-227	(Kauai Medical Group, Inc.)	186.15
Case No. 81-237		1,000.00
Case No. 81-237	(G.N. Wilcox Memorial Hospital & Health Center)	97.40
Case No. 81-248		175.00
Case No. 81-248	(Victor Agmata, Jr. - Attorney)	25.00
Case No. 81-274		465.52
Case No. 81-277		223.54
Case No. 81-304		972.80
Case No. 81-304	(Queen's Medical Center)	1,900.85
Case No. 81-304	(Dr. Lewis Williamson)	1,352.00
Case No. 81-304	(Dr. George Seberg)	219.80
Case No. 81-304	(Dr. David Johnson)	388.40
Case No. 81-304	(Radiology Associates, Inc.)	75.40
Case No. 81-304	(Emergency Group, Inc.)	51.48
Case No. 81-304	(Jeffrey Taylor - Attorney)	35.00
Case No. 81-306		1,890.57
Case No. 81-317		457.21
Case No. 81-321		100.00
Case No. 81-321	(Hilo Hospital)	172.45
Case No. 81-321	(Hilo Radiologic Associates, Ltd.)	70.72
Case No. 81-326		750.00
Case No. 81-330		5,487.40
Case No. 81-330	(Queen's Medical Center)	220.76
Case No. 81-330	(Radiology Associates, Inc.)	342.16
Case No. 81-330	(International Life Support, Inc.)	119.00
Case No. 81-334		445.25
Case No. 81-339		447.98
Case No. 81-341		300.00
Case No. 81-342		200.00
Case No. 81-369		250.00
Case No. 81-374	(The Emergency Group, Inc.)	401.54
Case No. 81-374	(Radiology Associates, Inc.)	131.56
Case No. 81-374	(Queen's Medical Center)	98.75
Case No. 81-374	(Dr. John Henrickson)	305.76
Case No. 81-375		9,600.00
Case No. 81-375	(Andy Camacho - Attorney)	400.00
Case No. 81-377		455.00
Case No. 81-378		2,000.00
Case No. 81-381		1,616.72
Case No. 81-387		1,800.00
Case No. 81-389		719.84
Case No. 81-389	(Queen's Medical Center)	26.00
Case No. 81-389	(The Emergency Group, Inc.)	34.32
Case No. 81-392		268.20
Case No. 81-392	(Queen's Medical Center)	211.82

ACT 110

Case No. 81-393	3,081.17
Case No. 81-394	3,281.40
Case No. 81-394 (Queen's Medical Center)	228.25
Case No. 81-396	50.00
Case No. 81-397	150.00
Case No. 81-398	1,200.00
Case No. 81-399	375.00
Case No. 81-400	1,000.00
Case No. 81-400 (Dr. Thomas Sakoda)	997.47
Case No. 81-401	1,193.40
Case No. 81-402	132.85
Case No. 81-409	570.18
Case No. 81-412	800.00
Case No. 81-413	400.00
Case No. 81-414	1,800.00
Case No. 81-415 (Kahuku Hospital)	89.70
Case No. 81-416	5,430.00
Case No. 81-417	1,590.00
Case No. 81-419	2,038.94
Case No. 81-421	1,515.60
Case No. 81-423	1,000.00
Case No. 81-424	1,342.48
Case No. 81-425	350.00
Case No. 81-426	59.85
Case No. 81-426 (Queen's Medical Center)	229.00
Case No. 81-426 (Dr. Wayne Lee)	1,422.20
Case No. 81-426 (Dr. Efren Baria)	314.34
Case No. 81-426 (Dr. Roland Tam)	33.44
Case No. 81-426 (The Emergency Group, Inc.)	92.56
Case No. 81-426 (Radiology Associates, Inc.)	31.46
Case No. 81-427	50.00
Case No. 81-429	175.00
Case No. 81-429 (Victor Agmata, Jr. - Attorney)	25.00
Case No. 81-430	250.00
Case No. 81-432	1,350.00
Case No. 81-433	650.00
Case No. 81-435	468.26
Case No. 81-436	1,764.08
Case No. 82-1	2,035.94
Case No. 82-3	1,000.00
Case No. 82-3 (G.N. Wilcox Memorial Hospital & Health Center)	45.00
Case No. 82-5	817.32
Case No. 82-6	232.57
Case No. 82-7	1,257.84
Case No. 82-8	534.77

Case No. 82-8	(Queen's Medical Center)	184.50
Case No. 82-9		3,000.00
Case No. 82-10		562.66
Case No. 82-11		135.00
Case No. 82-12		100.00
Case No. 82-15		168.05
Case No. 82-16		200.00
Case No. 82-16	(The Maui Medical Group, Inc.)	109.72
Case No. 82-17		1,286.53
Case No. 82-18		50.00
Case No. 82-19		500.00
Case No. 82-20		719.28
Case No. 82-21	(Castle Memorial Hospital)	83.25
Case No. 82-21	(Hawaii Emergency Physicians Associated, Inc.)	156.24
Case No. 82-22		565.41
Case No. 82-24		266.12
Case No. 82-27		2,556.66
Case No. 82-28		400.00
Case No. 82-29		1,500.00
Case No. 82-30		621.37
Case No. 82-31		750.00
Case No. 82-32		2,097.15
Case No. 82-35		100.00
Case No. 82-37		2,827.63
Case No. 82-38		200.00
Case No. 82-40		400.00
Case No. 82-43		409.57
Case No. 82-43	(St. Francis Hospital)	222.25
Case No. 82-43	(Rehabilitation Hospital of the Pacific)	89.00
Case No. 82-43	(Dr. Edwin L. Young)	296.14
Case No. 82-44		734.07
Case No. 82-46		200.00
Case No. 82-46	(Straub Clinic & Hospital, Inc.)	101.11
Case No. 82-47		1,564.80
Case No. 82-48		500.00
Case No. 82-49		306.17
Case No. 82-50		750.00
Case No. 82-52		100.00
Case No. 82-53		750.00
Case No. 82-53	(G.N. Wilcox Memorial Hospital & Health Center)	85.80
Case No. 82-53	(Kauai Medical Group)	13.20
Case No. 82-54		679.11
Case No. 82-54	(G.N. Wilcox Memorial Hospital & Health Center)	151.77

ACT 110

Case No. 82-54	(Kauai Medical Group)	40.00
Case No. 82-55		1,000.00
Case No. 82-55	(Dr. Nancy Knight)	500.00
Case No. 82-56		1,235.04
Case No. 82-57		50.00
Case No. 82-59		3,000.00
Case No. 82-59	(Queen's Medical Center)	2,139.70
Case No. 82-59	(Dr. Lorene Anastasi)	265.20
Case No. 82-59	(Dr. Roy Ebisu)	455.99
Case No. 82-59	(Radiology Associates, Inc.)	164.06
Case No. 82-59	(The Emergency Group, Inc.)	111.08
Case No. 82-59	(Honolulu Orthopedic Supply)	23.92
Case No. 82-63		524.43
Case No. 82-63	(Dr. Alfred Arensdorf)	1,326.00
Case No. 82-64		4,336.56
Case No. 82-65		1,029.56
Case No. 82-66		200.00
Case No. 82-68		784.00
Case No. 82-69		1,263.81
Case No. 82-70		100.00
Case No. 82-71		304.21
Case No. 82-71	(Fronk-Clinic Pearlridge)	33.32
Case No. 82-73		750.00
Case No. 82-74		1,324.77
Case No. 82-80		1,129.83
Case No. 82-81		404.50
Case No. 82-82		100.00
Case No. 82-83		100.00
Case No. 82-83	(Dr. James Oda)	139.99
Case No. 82-83	(Queen's Medical Center)	28.75
Case No. 82-83	(Kuakini Plaza Radiology, Inc.)	43.68
Case No. 82-84		2,077.10
Case No. 82-84	(Department of Health, State of Hawaii)	110.00
Case No. 82-85		100.00
Case No. 82-86		750.00
Case No. 82-89		1,193.49
Case No. 82-91		1,430.83
Case No. 82-92		1,500.00
Case No. 82-95		575.00
Case No. 82-95	(Alexander Robertson - Attorney)	25.00
Case No. 82-97		400.00
Case No. 82-98		439.84
Case No. 82-99		1,694.85
Case No. 82-101		500.00
Case No. 82-102		50.00
Case No. 82-106		685.15

Case No. 82-108	1,243.93
Case No. 82-109	250.00
Case No. 82-110	407.45
Case No. 82-111	76.08
Case No. 82-114	500.00
Case No. 82-115	760.00
Case No. 82-116	1,129.49
Case No. 82-117	2,937.00
Case No. 82-118	874.78
Case No. 82-119	1,608.54
Case No. 82-120	1,000.00
Case No. 82-121	100.00
Case No. 82-122	200.00
Case No. 82-122 (Kaiser Medical Center)	146.00
Case No. 82-124	589.54
Case No. 82-124 (Hawaii Emergency Physicians Associated, Inc.)	313.57
Case No. 82-124 (Wahiawa General Hospital)	70.55
Case No. 82-125	200.00
Case No. 82-127	197.44
Case No. 82-128	50.00
Case No. 82-129	150.00
Case No. 82-133	100.00
Case No. 82-134	454.72
Case No. 82-137	167.53
Case No. 82-138	1,028.00
Case No. 82-140	350.00
Case No. 82-142	300.00
Case No. 82-144	330.93
Case No. 82-146	150.00
Case No. 82-147	250.00
Case No. 82-150	600.00
Case No. 82-151	200.00
Case No. 82-152	1,275.95
Case No. 82-153	2,120.00
Case No. 82-154	1,000.00
Case No. 82-156	86.64
Case No. 82-157	1,500.00
Case No. 82-158	1,000.00
Case No. 82-160	500.00
Case No. 82-161	1,500.00
Case No. 82-164	100.00
Case No. 82-164 (Kuakini Medical Center)	47.00
Case No. 82-167	100.00
Case No. 82-168	100.00
Case No. 82-170	10,000.00

ACT 110

Case No. 82-174	301.65
Case No. 82-175	2,500.00
Case No. 82-176	760.00
Case No. 82-176 (Straub Clinic & Hospital, Inc.)	1,148.96
Case No. 82-176 (Dr. George Tanaka)	2,266.00
Case No. 82-177	500.00
Case No. 82-178	500.00
Case No. 82-180	3,893.56
Case No. 82-180 (Guy Haywood - Attorney)	50.00
Case No. 82-182	375.00
Case No. 82-183	500.00
Case No. 82-185	260.00
Case No. 82-186	60.00
Case No. 82-186 (Queen's Medical Center)	214.00
Case No. 82-186 (The Emergency Group, Inc.)	55.54
Case No. 82-186 (Radiology Associates, Inc.)	51.48
Case No. 82-186 (Dr. Marco Rizzo)	41.60
Case No. 82-187	205.31
Case No. 82-187 (St. Francis Hospital)	218.45
Case No. 82-188	750.00
Case No. 82-189	1,468.15
Case No. 82-191	2,000.00
Case No. 82-192	311.24
Case No. 82-193	2,500.00
Case No. 82-194	500.00
Case No. 82-195	500.00
Case No. 82-196	278.00
Case No. 82-197	550.20
Case No. 82-198	183.00
Case No. 82-200	750.00
Case No. 82-200 (G.N. Wilcox Memorial Hospital & Health Center)	159.90
Case No. 82-203	750.00
Case No. 82-204	130.60
Case No. 82-206	150.00
Case No. 82-207	2,136.36
Case No. 82-209	100.00
Case No. 82-212	400.00
Case No. 82-213	1,354.08
Case No. 82-217	100.00
Case No. 82-218	892.40
Case No. 82-219	500.00
Case No. 82-220	3,052.35
Case No. 82-221	1,500.00
Case No. 82-222	300.00
Case No. 82-224	1,500.00

Case No. 82-226	1,340.00
Case No. 82-227	400.00
Case No. 82-228	142.16
Case No. 82-230	1,202.00
Case No. 82-232	50.00
Case No. 82-233	250.00
Case No. 82-234	1,150.78
Case No. 82-236	500.00
Case No. 82-237	523.69
Case No. 82-238	74.88
Case No. 82-240 (Dr. Lloyd Uto)	1,101.36
Case No. 82-241	1,500.00
Case No. 82-242	844.10
Case No. 82-243	100.00
Case No. 82-246	1,200.00
Case No. 82-248	1,800.00
Case No. 82-250	100.00
Case No. 82-251	1,000.00
Case No. 82-255	113.09
Case No. 82-257	4,100.40
Case No. 82-258	841.03
Case No. 82-259	500.00
Case No. 82-260	1,289.20
Case No. 82-261	100.00
Case No. 82-263	500.00
Case No. 82-264	750.00
Case No. 82-267	707.92
Case No. 82-267 (Dr. Joseph Chang)	100.00
Case No. 82-268	500.00
Case No. 82-269	190.00
Case No. 82-270	2,940.00
Case No. 82-271	3,867.45
Case No. 82-272	4,325.00
Case No. 82-273	160.00
Case No. 82-275	5,080.00
Case No. 82-277	500.00
Case No. 82-278	501.71
Case No. 82-279	2,720.68
Case No. 82-281	1,521.93
Case No. 82-283	286.00
Case No. 82-285	1,500.00
Case No. 82-286	750.00
Case No. 82-287	375.00
Case No. 82-289	776.35
Case No. 82-290	513.58
Case No. 82-291	300.00

ACT 110

Case No. 82-292		1,212.00
Case No. 82-292	(Dr. Leslie Luke)	37.44
Case No. 82-292	(Dr. Philip Lee)	86.01
Case No. 82-293	(Kuakini Medical Center)	203.00
Case No. 82-293	(Dr. Maxwell Urata)	70.20
Case No. 82-294		284.90
Case No. 82-295		387.25
Case No. 82-296		637.50
Case No. 82-296	(Kahuku Hospital)	268.50
Case No. 82-296	(Dr. Robert Nemechek)	198.81
Case No. 82-296	(Dr. Marc Shlachter)	158.75
Case No. 82-296	(Dr. Denis Mee-Lee)	117.52
Case No. 82-297		437.98
Case No. 82-299		725.00
Case No. 82-299	(Robert Rodrigues - Attorney)	25.00
Case No. 82-300		342.40
Case No. 82-312		545.60
Case No. 82-313		2,713.46
Case No. 82-314	(Queen's Medical Center)	73.50
Case No. 82-314	(The Emergency Group, Inc.)	62.40
Case No. 82-314	(Radiology Associates, Inc.)	19.76
Case No. 82-315		500.00
Case No. 82-316		1,543.23
Case No. 82-317		1,500.00
Case No. 82-318		530.00
Case No. 82-320	(St. Francis Hospital)	2,041.08
Case No. 82-320	(The Honolulu Medical Group, Inc.)	783.12
Case No. 82-320	(Queen's Medical Center)	363.35
Case No. 82-320	(The Emergency Group, Inc.)	104.00
Case No. 82-322		303.28
Case No. 82-324		1,080.40
Case No. 82-325		1,500.00
Case No. 82-329		1,076.84
Case No. 82-332		1,250.00
Case No. 82-336		50.00
Case No. 82-339		1,250.00
Case No. 82-341	(Queen's Medical Center)	155.75
Case No. 82-343		50.00
Case No. 82-344		1,737.09
Case No. 82-344	(Straub Clinic & Hospital, Inc.)	3,533.21
Case No. 82-346		775.50
Case No. 82-347	(G. N. Wilcox Memorial Hospital & Health Center)	55.00
Case No. 82-347	(Kauai Medical Group)	27.00
Case No. 82-348		250.00
Case No. 82-348	(Castle Memorial Hospital)	78.65

Case No. 82-348	(Dr. Howard Keller)	184.55
Case No. 82-349		100.00
Case No. 82-350		1,200.00
Case No. 82-350	(Queen's Medical Center)	241.60
Case No. 82-350	(The Emergency Group, Inc.)	104.00
Case No. 82-350	(Dr. Joseph Chang)	150.00
Case No. 82-351	(Dr. Wilfred Leong)	1,515.28
Case No. 82-351	(St. Francis Hospital)	66.00
Case No. 82-351	(Dr. William Stevens)	364.00
Case No. 82-351	(The Radiology Group, Inc.)	26.00
Case No. 82-352		175.36
Case No. 82-352	(Kuakini Medical Center)	170.40
Case No. 82-352	(Hawaii Emergency Physicians Associated, Inc.)	243.94
Case No. 82-352	(Dr. C. M. Mirikitani)	29.74
Case No. 82-352	(Kuakini Radiology Group, Inc.)	26.52
Case No. 82-354		151.90
Case No. 82-355		297.02
Case No. 82-364		1,000.00
Case No. 82-381		1,092.94
Case No. 82-384		200.00
Case No. 82-394		47.91

SECTION 2. The sums appropriated in Section 1 of this Act shall be deposited into the Criminal Injuries Compensation Fund to be used for payments as authorized by the Criminal Injuries Compensation Commission.

SECTION 3. All unexpended and unencumbered balances of the appropriations made by this Act, as of the close of business on June 30, 1984, shall lapse into the general fund of the State.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 25, 1983.)

A Bill for an Act Relating to Conservation of Aquatic Life, Wildlife and Plants.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 195D, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**“CHAPTER 195D
CONSERVATION OF AQUATIC LIFE, WILDLIFE,
AND LAND PLANTS”**

SECTION 2. Section 195D-1, Hawaii Revised Statutes, is amended to read as follows:

“**[§195D-1] Findings and declaration of necessity.** Since the discovery and settlement of the Hawaiian islands by man, many species of aquatic life, wildlife, and land plants that occurred naturally only in Hawaii have become extinct and many [of the remaining species] are threatened with extinction, primarily because of increased human use of the land and disturbance to native ecosystems.

All indigenous species of aquatic life, wildlife, and land plants are integral parts of Hawaii's native ecosystems and comprise the living heritage of Hawaii, for they represent a natural resource of scientific, cultural, educational, environmental, and economic value to future generations of Hawaii's people.

To insure the continued perpetuation of indigenous aquatic life, wildlife, [and] land plants, and their habitats for human enjoyment, for scientific purposes, and as members of ecosystems, it is necessary that the State take positive actions to enhance their prospects for survival.”

SECTION 3. Section 195D-2, Hawaii Revised Statutes, is amended to read as follows:

“**[§195D-2] Definitions.** As used in this chapter:

“Aquatic life” means any type of species of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral, or other animals that inhabit the freshwater or marine environment, and includes any part, product, egg, or offspring thereof, or freshwater or marine plants, including seeds, roots, and other parts thereof;

[(a)] “Conserve,” “conserving,” and “conservation” mean to use and the use of all methods and procedures for the purpose of increasing and maintaining populations of aquatic life, wildlife, and land plants. Such methods and procedures include, but are not limited to, activities such as research, census, habitat acquisition, protection, maintenance, propagation, live trapping, regulated taking, law enforcement, and transplantation;

[(b)] “Department” means the¹ department of land and natural resources;

[(c)] “Ecosystem” means all natural elements, physical and biological, of the habitat or site in which any aquatic life, wildlife, or land plant species is found, and upon which it is dependent;

[(d)] “Endangered species” means any species whose continued existence as a viable component of Hawaii's indigenous fauna or flora is determined to be in jeopardy and has been so designated pursuant to section 195D-4;

[(e)] “Endangered Species Act” means the Endangered Species Act of 1973, 87 Stat. 884, or as such Act may be subsequently amended;

[(f)] “Indigenous species” means any aquatic life, wildlife, or land plant species growing or living naturally in Hawaii without having been brought to Hawaii by man;

"License" means written permission by the department of land and natural resources to do a particular act or series of acts which without such permission would be unauthorized or prohibited.

[(g)] "Person" means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the federal government, of any state or political subdivision thereof, or of any foreign government;

[(h)] "Land plant" means any member of the plant kingdom, including seeds, roots and other parts thereof[;], except freshwater or marine plants;

[(i)] "Species" means and shall include any subspecies or lower taxa of aquatic life, wildlife, or land plants;

[(j)] "Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect endangered or threatened species of aquatic life or wildlife, or to cut, collect, uproot, destroy, injure, or possess endangered or threatened species of aquatic life or land plants, or to attempt to engage in any such conduct;

[(k)] "Threatened species" means any species of aquatic life, wildlife, or land plant which appears likely, within the foreseeable future, to become endangered and has been so designated pursuant to section 195D-4; and

[(l)] "Wildlife" means any [member of any] non-domesticated [species] member of the animal kingdom, whether reared in captivity or not, including [, without exception, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes] any part, product, egg, or offspring thereof, [or the dead body or parts thereof.] except aquatic life as defined in this section."

SECTION 4. Section 195D-3, Hawaii Revised Statutes, is amended to read as follows:

"[§195D-3] Determination by the department relating to conservation of particular species. (a) The department is authorized to conduct investigations on any species of aquatic life, wildlife, and land plants in order to develop information relating to their biology, ecology, population, status, distribution, habitat needs, and other limiting factors to determine conservation measures necessary for their continued ability to sustain themselves successfully.

(b) The department is authorized to [promulgate] adopt pursuant to chapter 91, [regulations] rules relating to the taking, possession, transportation, importation, exportation, processing, selling, or offering for sale, or shipment of any species of aquatic life, wildlife, and land plant for the purpose of conserving the same.

(c) Except as permitted by [regulations] rules [promulgated] adopted by the department, it shall be unlawful for any person to take, possess, transport, export, process, sell, [or] offer for sale, or ship any species of aquatic life, wildlife, or land plants deemed by the department to be in need of conservation pursuant to this section."

SECTION 5. Section 195D-4, Hawaii Revised Statutes, is amended to read as follows:

"[§195D-4] Endangered species and threatened species. (a) Any species of aquatic life, wildlife, or [wild] land plant that has been determined to be an endangered species pursuant to the Endangered Species Act shall be deemed to be an endangered species under the provisions of this chapter and any indigenous species of aquatic life, wildlife, or land plant that has been determined to be a threatened species pursuant to the Endangered Species Act shall be deemed to be a threatened species under the provision of this chapter. However, the department may determine, in accordance with this section, that any such threatened species is an endangered species throughout all or any portion of the range of such species within this State.

(b) In addition to the species that have been determined to be endangered or threatened pursuant to the Endangered Species Act, the department may, by [regulation, promulgated] rules adopted pursuant to chapter 91, determine any indigenous species of aquatic life, wildlife, or [wild] land plant to be an endangered species or a threatened species because of any of the following factors:

- (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (2) Overutilization for commercial, sporting, scientific, educational, or other purposes;
- (3) Disease or predation;
- (4) The inadequacy of existing regulatory mechanisms; or
- (5) Other natural or man made factors affecting its continued existence within Hawaii.

(c) Basis for determinations. The department shall make determinations required by subsection (b) of this section on the basis of all available scientific, commercial and other data after consultation, as appropriate, with Federal agencies, other interested state and county agencies, and interested persons and organizations.

(d) Lists.

- (1) The department shall issue [regulations] rules containing a list of all species of aquatic life, wildlife, and land plants that have been determined, in accordance with subsections (a) through (c) of this section, as endangered species and a list of all such species so designated as threatened species. Each list shall include the scientific, common, and Hawaiian name or names, if any, and shall specify with respect to each such species over what portion of its range it is endangered or threatened.
- (2) Except with respect to species of aquatic life, wildlife, or land plants determined to be endangered or threatened pursuant to the Endangered Species Act, the department shall, upon its own recommendation or upon the petition of three interested persons, who have presented to the department substantial evidence which warrants review, conduct a review of any listed or unlisted indigenous species proposed to be removed from or added to the lists published pursuant to paragraph (1) of this subsection.

(e) Prohibited acts. With respect to any endangered species of aquatic life, wildlife, or land plant, it is unlawful, except as provided in subsection (f) of this section, for any person subject to the jurisdiction of this State to:

- (1) Export any such species from this State;
- (2) Take any such species within this State;
- (3) Possess, process, sell, [or] offer for sale, deliver, carry, transport, or ship, by any means whatsoever, any such species;
- (4) Violate any [regulation] rule pertaining to the conservation of such species or to any threatened species of aquatic life, wildlife, and land plant listed pursuant to this section and [promulgated] adopted by the department pursuant to authority provided by this chapter.

(f) [Permits] License. The department [may permit,] may issue temporary licenses, under such terms and conditions as it may prescribe, to allow any act otherwise prohibited by subsection (e) of this section, for scientific purposes or to enhance the propagation or survival of the affected species. Licenses issued pursuant to this subsection shall be revocable for due cause and shall be nonassignable. Any person whose license has been revoked shall not be eligible to apply for another license until the expiration of two years from the date of revocation."

SECTION 6. Section 195D-5, Hawaii Revised Statutes, is amended to read as follows:

"§195D-5 Conservation programs. (a) The department shall conduct research on indigenous aquatic life, wildlife, and land plants, and on endangered species and their associated ecosystems, and shall utilize the land acquisition and other authority vested in the department to carry out programs for the conservation, management, and protection of such species and their associated ecosystems. In addition, the department is hereby authorized to acquire by purchase, donation or otherwise, lands or interests therein needed to carry out the programs relating to the intent and purpose of this [part.] chapter.

(b) The office of the governor shall review other programs administered by the department and, to the extent practicable, utilize such programs in furtherance of the purposes of this section. The governor or his authorized representative shall also encourage other state and federal agencies to utilize their authorities in furtherance of the purposes of this section by carrying out programs for the protection of endangered species and by taking such action as may be necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of endangered species.

(c) In carrying out programs authorized by this section, the department may enter into agreements with federal agencies and with the counties for administration and management of any area established under this section, or utilized for conserving, managing, enhancing, or protecting indigenous aquatic life, wildlife, land plants, and endangered species.

(d) In carrying out programs authorized by this section, priority shall be given to the conservation and protection of those endangered aquatic life, wildlife, and land plant species and their associated ecosystems, whose extinction within the State would imperil or terminate, respectively, their existence in the world.

(e) The department shall coordinate with the natural area reserves commission and the animal species advisory commission all research, investigations, lists of indigenous and endangered aquatic life, wildlife, and land plants, and programs for the conservation, management, enhancement, and protection of species that are authorized by this [part.] chapter.

(f) The department may permit, under terms and conditions adopted by rule, the taking, possession, transportation, or exportation of any indigenous aquatic life, wildlife, or land plant on the endangered species list for scientific purposes and for propagation of such species in captivity for preservation purposes."

SECTION 7. Section 195D-6, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~195D-6] **[Regulations.] Rules.** The department shall [have the authority to promulgate] adopt rules pursuant to chapter 91 [such regulations as are] necessary to carry out the purposes of this chapter."

SECTION 8. Section 195D-7, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~195D-7] **§195D-7 Enforcement.** Any employee or agent of the department upon whom the board of land and natural resources has conferred powers of police officers, including the power to serve and execute warrants and arrest offenders, or issue citations throughout the State, and any police officer of the counties of this State shall have the authority to enforce any of the provisions of this chapter or any [regulation or] rule [promulgated] adopted pursuant hereto."

SECTION 9. Section 195D-8, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~195D-8] **Search and seizure.** Any officer or agent authorized pursuant to section 195D-7 shall have the authority to conduct searches as provided by law and to seize any equipment, business records, merchandise, aquatic life, wildlife, or [wild] land plant taken, possessed, transported, sold, offered for sale, or used in violation of any section of this part or any rule [or regulation promulgated] adopted hereunder, and any of the foregoing so seized shall be held by the department pending disposition of court proceedings, or the department prior to forfeiture, may direct the transfer of aquatic life, wildlife, or [wild] land plants so seized to a qualified ichthyological, zoological, botanical, educational, or scientific institution for safekeeping, costs thereof to be paid by the defendant. Upon conviction of the person or persons from whom the seizure was made, the court shall declare the items seized forfeited to the State. Such items shall be destroyed or disposed of in any manner as the department may deem appropriate."

SECTION 10. Section 195D-9, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~195D-9] **Penalty.** Any person who violates any of the provisions of this chapter or the provisions of any [regulation or] rule [promulgated] adopted hereunder shall be [fined not more than \$1,000 or be imprisoned not more than one year, or both.] guilty of a misdemeanor and shall be punished as follows:

- (1) For a first conviction by a fine of not less than \$250 nor more than \$1,000 or by imprisonment of not more than one year, or both;
- (2) For a second or subsequent conviction within five years of a previous conviction by a fine of not less than \$500 nor more than \$1,000 or by imprisonment of not more than one year, or both.

In addition to the above penalties, a fine of \$500 for each specimen of a threatened species and \$1,000 for each specimen of an endangered species intentionally, knowingly, or recklessly killed or removed from its original growing location, shall be levied against the convicted person."

SECTION 11. Section 195D-10, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§195D-10]]~~ **Severability.** Should any section, subsection, sentence, clause, or phrase of this chapter, or any [regulation or] rule [promulgated] adopted pursuant thereto be for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this chapter [or regulation] or rule [promulgated] adopted pursuant thereto."

SECTION 12. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 13. This Act shall take effect upon its approval.

(Approved May 25, 1983.)

Note

1. Underscoring missing.

ACT 112

S.B. NO. 556

A Bill for an Act Relating to Business Registration.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 416-97, Hawaii Revised Statutes, is amended to read as follows:

"**§416-97 Fees; amount.** The following fees shall be paid to the director of [regulatory agencies] commerce and consumer affairs upon the filing of the corporate documents:

- (1) Articles of incorporation and affidavit of incorporation, 20 cents per \$1,000 authorized capital, \$50 minimum, \$1,000 maximum;
- (2) Certificate of increase of authorized capital stock, 20 cents per \$1,000 authorized capital increase, \$20 minimum, \$1,000 maximum;
- (3) Certificate of renewal or extension of corporate existence, same as the filing of articles of incorporation;
- (4) Certificate of reduction of capital stock, \$15;
- (5) Certificate of amendment of articles of incorporation, \$10;
- (6) Agreement of merger or consolidation, \$50;
- (7) Annual corporation exhibit of domestic and foreign corporations organized for profit, \$10;

- (8) Certificate of dissolution, \$5;
- (9) Resolution of issuance of preferred stock, \$10;
- (10) Certification, 10 cents per page or any portion thereof;
- (11) Petition and charter of incorporation of nonprofit corporation, \$10;
- (12) Certificate of amendment and renewal or extension of charter of nonprofit corporation, \$5;
- (13) Articles of incorporation of agricultural and fishing cooperatives without capital stock, \$15;
- (14) Restated articles of incorporation: corporations with an authorized capital of less than \$500,000, \$20; corporations with an authorized capital of \$500,000 or more, \$100;
- (15) Annual exhibit of nonprofit domestic and foreign corporations, \$1;
- (16) Agreement of merger or consolidation of nonprofit corporations, \$5;
- (17) Special handling fee for review of corporation documents, excluding agreement of merger or consolidation, \$40;
- (18) Special handling fee for review of agreement of merger or consolidation, \$100;
- (19) Special handling fee for certificates issued by the department, \$10 per certificate;
- (20) Special handling fee for certification of documents, \$1 per page.

All special handling fees shall be credited to a special fund which may be established for use by the department in expediting the processing of documents. [For fiscal year 1982-1983 at] At least two temporary business registration assistants I's shall be paid out of the special fund. This special fund shall be repealed effective [July 1, 1984.] July 1, 1985."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1983.)

ACT 113

S.B. NO. 608

A Bill for an Act Relating to Rental Assistance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 356-302, Hawaii Revised Statutes, is amended by amending the definition of "eligible project" to read as follows:

"'Eligible project' means a rental housing project which:

- (1) Is financed by the authority pursuant to [the provisions of] part II of chapter 356 [;] or by the federal government pursuant to any program of the National Housing Act of 1934, as amended;
- (2) Is subject to a regulatory agreement with the authority;
- (3) Has not less than twenty per cent of the units in the project maintained for eligible tenants;

- (4) Has the remaining units, other than a unit reserved for a manager of the project, maintained for moderate income persons and families, as defined in section 356-206(b); and
- (5) Meets other qualifications as established by rules adopted by the authority."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii, the sum of \$1 for fiscal year 1983-1984 to be paid into the rental assistance fund created in section 356-303, Hawaii Revised Statutes. The sum appropriated by this Act shall be expended by the Hawaii housing authority for the purposes of the rental assistance fund.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that section 2 shall take effect on July 1, 1983.

(Approved May 25, 1983.)

ACT 114

S.B. NO. 891

A Bill for an Act Making an Appropriation For Payment of Negotiated Settlement Between Research Corporation of the University of Hawaii and Hawaiian Dredging and Construction Company.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Findings and purpose.** The purpose of this Act is to provide for the payment of a negotiated settlement between the Research Corporation of the University of Hawaii and Hawaiian Dredging and Construction Company on claims for cost overruns incurred in construction related to the development of an Ocean Thermal Energy Conversion Plant, commonly known as "Mini-OTEC". Hawaiian Dredging and Construction Company's claims arise out of the Agreement for Management Services between the parties dated December 1, 1978.

The sum of \$321,786 has been agreed upon between the Research Corporation of the University of Hawaii and Hawaiian Dredging and Construction Company as the fair and reasonable settlement value of Hawaiian Dredging and Construction Company's claims. This settlement agreement was reached pursuant to negotiations held between the parties in accordance with the procedures outlined and agreed upon in the Agreement for Management Services dated December 1, 1978.

The Departments of Planning and Economic Development and the Attorney General have reviewed and evaluated the claims and procedures employed in reaching the settlement figure and consider the settlement to be fair, equitable, and in the best interests of the State of Hawaii.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$321,786, or so much thereof as may be necessary for fiscal year 1982-1983, in full settlement of all claims held by Dillingham Corporation dba Hawaiian Dredging and Construction Company, which arise out of its participation

ACT 115

in the construction and development of "Mini-OTEC" pursuant to the Agreement for Management Services between the Research Corporation of the University of Hawaii and Hawaiian Dredging and Construction Company, dated December 1, 1978.

SECTION 3. The sum appropriated shall be expended by the department of planning and economic development for the purposes of this Act.

SECTION 4. This Act shall take effect upon approval.

(Approved May 25, 1983.)

ACT 115

S.B. NO. 1122

A Bill for an Act Relating to the State Librarian.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 312-2.1, Hawaii Revised Statutes, is amended to read as follows:

"§312-2.1 Appointment of state librarian; duties;¹ salary. The state librarian shall be appointed by the board of education, without regard to chapters 76 and 77, shall serve at the pleasure of the board, shall be under the direction of the board, and shall be responsible for the operation, planning, programming, and budgeting of all community/school and public libraries within the State. Notwithstanding any other law to the contrary, the salary of the state librarian shall be set by the board of education. [Effective July 1, 1981, the salary shall not exceed \$41,250 a year.] Effective July 1, 1982, the salary shall not exceed \$44,550 a year."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1983.)

Note

1. "§;" added by revisor.

ACT 116

S.B. NO. 1338

A Bill for an Act Relating to Real Estate.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 467-8, Hawaii Revised Statutes, is amended to read as follows:

"§467-8 Prerequisites for licensing. No license hereunder shall be issued to:

- (1) Any person who does not satisfy the requirements set forth in section 467-9.5;

- (2) Any person unless he has demonstrated by passing with a grade satisfactory to the real estate commission a written examination appropriate to the license sought that he has a reasonable knowledge of (A) estates, interests, and rights in real property, (B) the documents or acts or occurrences by which such property is transferred or otherwise affected, (C) the rights and duties of an agent, (D) the laws of the State relating to real estate brokers and salesmen, and (E) such other subjects as the commission determines to be essential for the protection of the general public in its real estate transactions;
- (3) Any person who does not possess a [good character and] reputation for honesty, truthfulness, and fair dealing;
- (4) Any copartnership unless every member of the copartnership who actively participates in the real estate brokerage business thereof holds a real estate broker's license;
- (5) Any corporation unless the real estate brokerage business thereof is under the direct management of an officer or employee thereof and unless the officer or employee holds a real estate broker's license."

SECTION 2. Section 467-9, Hawaii Revised Statutes, is amended to read as follows:

"§467-9 License; applications and fees. Every applicant for issuance of a real estate license under this chapter shall file an application with the real estate commission in such form and setting forth such information as may be prescribed or required by the commission, and shall furnish such additional information bearing upon the issuance of the license as it requires. Every application shall be sworn to before an officer authorized to administer oaths. In the case of a copartnership or corporation any member or officer thereof may sign the application and verify the same on behalf of the applicant. The commission may prescribe deadlines for the submission of applications.

[Every application, in the case of an individual, shall be accompanied by sworn certificates of not less than two persons who have known the applicant for a period of not less than six months, certifying that the applicant bears a good reputation for honesty, truthfulness, and fair dealing.

Every application for issuance of a real estate license hereunder shall be accompanied by an issuance fee of \$25 and other applicable fees authorized by this chapter. The application fee for issuance of license is nonrefundable.]"

SECTION 3. Section 467-9.5, Hawaii Revised Statutes, is amended to read as follows:

"§467-9.5 Prerequisites for written examination. No person shall be eligible for the written examination unless:

- (1) The person is a legal resident of the State and is of the age of majority;
- (2) The person applying for the real estate salesman examination has satisfactorily completed a course on real estate principles or its equivalent, approved or accredited by the real estate commission;

- (3) The person applying for the real estate broker examination has satisfactorily completed a course for real estate brokers, or its equivalent, approved or accredited by the real estate commission;
- (4) The person applying for the real estate broker examination (A) has previously been licensed as a Hawaii real estate salesman, and (B) has previously been engaged in the real estate business as a licensed Hawaii real estate salesman for a period of two years on a full-time basis, [or] and has practical experience in the real estate field as determined by the commission. The commission may waive all or a portion of the two years' experience, if the person has had other experience or education in the selling or management of real estate, which, in the opinion of the commission, is equivalent to two years' experience to be established by detailed explanatory affidavit or in such other manner as may be determined by the commission.

Each person shall certify on the application for examination that the prerequisites set forth above have been or will be satisfied prior to the date of examination. The examination score of any person who has taken the written examination without having satisfied the prerequisites set forth above shall be voided."

SECTION 4. Section 467-11, Hawaii Revised Statutes, is amended to read as follows:

"§467-11 Fees; original license and biennial renewals. The fee for any license prescribed by this chapter shall be as follows:

- (1) To act as a real estate broker, \$50, \$5 of which shall be deposited in the real estate education fund;
- (2) To act as a real estate salesman, \$50, \$5 of which shall be deposited in the real estate education fund;
- (3) Biennial renewal for broker, \$100, \$10 of which shall be deposited in the real estate education fund;
- (4) Biennial renewal for salesman, \$50, \$10 of which shall be deposited in the real estate education fund;
- (5) To obtain a branch office license, \$50;
- (6) To reinstate a suspended license, \$25;
- (7) Biennial renewal of inactive broker license, \$100, \$10 of which shall be deposited in the real estate education fund;
- (8) Biennial renewal of inactive salesman license, \$50, \$10 of which shall be deposited in the real estate education fund.

A fee of \$10 shall be charged for the reissuance of a lost license, or for the reissuance of license when there has been a change in the licensee's name or for the reissuance of license when there has been a change in the business address, or, in the case of a salesman, when he is either employed by or associated with a different broker.

The biennial renewal fee shall be paid to the real estate commission on or before December 31 of each even-numbered year. Failure, neglect, or refusal of any duly licensed real estate broker or real estate salesman to pay the biennial renewal fee shall constitute a forfeiture of the license of the broker or salesman. The license of the broker or salesman may be restored upon written application therefor

[and], the payment to the commission of the delinquent fee and a penalty fee of \$10[.], and satisfaction of such other requirements as the commission may impose as a condition to restoration.

A broker or salesman may place his license on an inactive status upon payment of the proper fee, and such license may be renewed biennially on or before December 31 of each even-numbered year.

All fees and other moneys collected or received under this chapter shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund.

The commission may refund any fee erroneously paid to it under the provisions of this section and section 467-9 when the commission deems it just and equitable."

SECTION 5. Section 467-16, Hawaii Revised Statutes, is amended to read as follows:

"§467-16 Real estate recovery fund; use of fund; fees. The real estate commission shall establish and maintain a real estate recovery fund from which any person aggrieved by an act, representation, transaction, or conduct of a duly licensed real estate broker, or real estate salesman, upon the grounds of fraud, misrepresentation, or deceit, may recover by order of the circuit court or district court of the county where the violation occurred, an amount of not more than [10,000]¹ \$25,000 per transaction for damages sustained by the fraud, misrepresentation, or deceit, including court costs and fees as set by law, and reasonable attorney fees as determined by the court.

When any person makes application for an original license to practice as a real estate broker or salesman he shall pay, in addition to his original license fee, a fee of \$50 for deposit in the real estate recovery fund. If the commission does not issue the license, this fee shall be returned to the applicant."

SECTION 6. Section 467-17, Hawaii Revised Statutes, is amended to read as follows:

"§467-17 Additional payments to fund. (a) If [, on December 31, of any year,] the balance remaining in the real estate recovery fund is less than [\$150,000,] \$350,000, the department of commerce and consumer affairs shall assess every real estate licensee [broker, when renewing his license during the following calendar year, shall pay, in addition to his license renewal fee,] a license fee of \$25 for deposit in the real estate recovery fund[, and every real estate salesman, when renewing his license during such year, shall pay, in addition to his license renewal fee, a fee of \$15 for deposit in the real estate recovery fund].

(b) The failure of the licensee to pay the assessment within sixty days from the date of assessment shall constitute a forfeiture of the license. The commission may impose other penalties or requirements as a condition to restoration of the license."

SECTION 7. Section 467-24, Hawaii Revised Statutes, is amended to read as follows:

"§467-24 Maximum liability. Notwithstanding any other provision, the liability of the real estate recovery fund shall not exceed [\$40,000] \$50,000 for any one licensee."

SECTION 8. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved May 25, 1983.)

Note

1. "\$" missing.

ACT 117

H.B. NO. 187

A Bill for an Act Relating to Traffic Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-4, Hawaii Revised Statutes, is amended to read as follows:

"§291-4 Driving under influence of intoxicating liquor. (a) [Whoever operates or assumes actual physical control of the operation of any vehicle while under the influence of intoxicating liquor shall be sentenced as follows without possibility of probation or suspension of sentence:] A person commits the offense of driving under the influence of intoxicating liquor if:

- (1) The person operates or assumes actual physical control of the operation of any vehicle while under the influence of intoxicating liquor; or
- (2) The person operates or assumes actual physical control of the operation of any vehicle with 0.10 per cent or more, by weight of alcohol in the person's blood.

(b) A person committing the offense of driving under the influence of intoxicating liquor shall be sentenced as follows without possibility of probation or suspension of sentence:

- (1) For a first offense, or any offense not preceded within a [four-year] five-year period by a conviction under this section, by:
 - (A) A fourteen-hour minimum alcohol abuse rehabilitation program including education and counseling, or other comparable program deemed appropriate by the court; and
 - (B) [Any two of the following:
 - (i) Seventy-two hours of community service work;
 - (ii) Thirty-day suspension of license;
 - (iii) Forty-eight hours of imprisonment;] Ninety day prompt suspension of license with absolute prohibition from operating a motor vehicle during suspension of license; and

- (C) Any one or more of the following:
- (i) Seventy-two hours of community service work; or
 - (ii) Not less than forty-eight hours of imprisonment; or
 - (iii) A fine of not less than \$150 but not more than \$1,000.
- (2) For an offense which occurs within [four] five years of a prior conviction under this section[, by any two of the following:
- (A) A fine of not less than \$250 but not more than \$1,000 or not less than seventy-two hours but not more than one hundred-fifty hours of community service work;
 - (B) Ninety-day suspension of license;
 - (C) Not less than two days but not more than ten days of imprisonment;];
- (A) Prompt suspension of license for a period of one year; and
- (B) Any one of the following:
- (i) Not less than ten days of community service work; or
 - (ii) Not less than forty-eight consecutive hours of imprisonment;
- or
- (iii) A fine of not less than \$500 but not more than \$1,000.
- (3) For an offense which occurs within [four] five years of two prior convictions under this section, by:
- (A) A fine of not less than \$500 but not more than \$1,000;
 - (B) Revocation of license for a period not less than one year but not more than five years; and
 - (C) Not less than ten days but not more than one hundred-eighty days imprisonment.
- (4) Notwithstanding any other law to the contrary, any conviction for driving under the influence of intoxicating liquor, shall be considered a prior conviction.

[[b)] (c) Notwithstanding any other law to the contrary, whenever a court revokes a person's driver's license pursuant to the provisions of this section, the examiner of drivers shall not grant to such person an application for a new driver's license for such period as specified by the court.

[(c)] (d) As used in this section the terms "driver," "driver's license," "examiner of drivers," and "vehicle" shall have the same meanings as provided in section 286-2."

SECTION 2. Section 291-5, Hawaii Revised Statutes, is amended to read as follows:

"§291-5 Evidence of intoxication. (a) In any criminal prosecution for a violation of section 291-4, ten-hundredths per cent or more by weight of alcohol in the defendant's blood within three hours after the time of the alleged violation as shown by chemical analysis or other approved analytical techniques of the defendant's blood or breath shall be competent evidence that the defendant was under the influence of intoxicating liquor at the time of the alleged violation.

(b) In any criminal prosecution for a violation of section 291-4, the amount of alcohol in the defendant's blood within three hours after the time of the alleged violation as shown by chemical analysis or other approved analytical techniques of

the defendant's blood or breath shall be competent evidence that the defendant was under the influence of intoxicating liquor at the time of the alleged violation and shall give rise to the following presumptions:

- (1) If there was five-hundredths per cent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor at the time of the alleged violation.
- (2) If there was in excess of five-hundredths per cent but less than ten-hundredths per cent by weight of alcohol in the defendant's blood, such fact may be considered with other competent evidence in determining whether or not the defendant was at the time of the alleged violation under the influence of intoxicating liquor but shall not of itself give rise to any presumption.
- [(3) If there was ten-hundredths per cent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor at the time of the alleged violation.]

(c) The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of intoxicating liquor at the time of the alleged violation."

SECTION 3. Section 8, Act 251, Session Laws of Hawaii 1982, is amended to read as follows:

"SECTION 8. This Act shall take effect upon its approval. [Any conviction prior to the effective date shall not be a prior conviction under this Act.]"

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 25, 1983.)

ACT 118

H.B. NO. 225

A Bill for an Act Relating to General Obligation Bonds of the State of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Notwithstanding the interest rate limitation contained in section 39-5, Hawaii Revised Statutes, and Act 71, Session Laws of Hawaii 1982, bonds issued after the effective date of this Act but prior to June 30, 1985, under part 1 of chapter 39, Hawaii Revised Statutes, may bear interest, payable annually or semi-annually, at a rate or rates not exceeding fourteen per cent a year.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 25, 1983.)

A Bill for an Act Relating to the Practice of Nursing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 457-1, Hawaii Revised Statutes, is amended to read as follows:

"§457-1 Purpose. In order to safeguard life and health, any person practicing or offering to practice as a registered nurse or as a licensed practical nurse in this State for compensation, shall be required to submit evidence that [he or she] the person is qualified to so practice, and shall be licensed as provided in this chapter. [After [June 12, 1970], it] It shall be unlawful for any person not licensed under this chapter to practice or offer to practice nursing as a registered nurse or as a licensed practical nurse or to use any sign, card, or device to indicate that the person is a registered nurse or a licensed practical nurse."

SECTION 2. Section 457-4, Hawaii Revised Statutes, is amended to read as follows:

"§457-4 Qualifications of board members. Each member of the board shall be [a citizen of the United States and] a resident of this State [and shall file with the lieutenant governor the constitutional oath of office before beginning his or her term of office].

Registered nurse members of the board shall possess the following additional qualifications:

- (1) Graduation from a state-accredited educational program to prepare for a registered nurse and at least a bachelor's degree in nursing but preferably a graduate degree in nursing;
- (2) Be a registered nurse in the State; and
- (3) Have at least five years of [successful] experience after graduation in [administration or teaching in an educational program to prepare practitioners of nursing] the practice of nursing as a registered nurse and at least three years of active nursing experience as a registered nurse immediately preceding appointment or reappointment.

Licensed practical nurse members of the board shall possess the following additional qualifications:

- (1) Graduation from a state-accredited educational program to prepare for a licensed practical nurse;
- (2) Be a licensed practical nurse in the State; and
- (3) Have at least five years of successful experience in the practice of nursing as a licensed practical nurse after graduation and at least three years of active nursing experience as a licensed practical nurse immediately preceding appointment or reappointment."

SECTION 3. Section 457-5, Hawaii Revised Statutes, is amended to read as follows:

"§457-5 Duties and powers of¹ board. (a) The board shall hold meetings [at such times] as it deems necessary. The board shall have a president and a secretary-treasurer who shall be elected annually from its members.

The board may:

- (1) Adopt, amend, or repeal [such] rules [and regulations], pursuant to chapter 91, not inconsistent with the law, as may be necessary to enable it to carry into effect this chapter;
- (2) Prescribe standards for preparing persons for licensure under this chapter;
- (3) Provide for surveys of educational programs [at such times] as it may deem necessary;
- (4) Accredite educational programs as meet the requirements of this chapter and the rules [and regulations] of the board;
- (5) Deny or withdraw accreditation from educational programs for failure to meet prescribed standards;
- (6) Examine, license, and renew the licenses of qualified applicants;
- (7) Conduct hearings upon charges calling for discipline of a licensee or, denial, suspension, or revocation of a license;
- (8) Exercise the power to issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings;
- (9) Cause the prosecution of all persons violating this chapter and to incur necessary expenses therefor; and
- (10) Keep a record of all its proceedings[; and
- (11) Make an annual report to the governor].

(b) The members of the board shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties."

SECTION 4. Section 457-6, Hawaii Revised Statutes, is amended to read as follows:

"§457-6 Executive secretary; other assistants. (a) Subject to chapters 76 and 77 the department of commerce and consumer affairs may employ and remove [such] administrative and clerical assistants as the board may require and prescribe their powers and duties.

- (b) (1) The department shall employ an executive secretary of the board whose position shall be subject to chapters 76 and 77. The executive secretary shall be employed with due regard to [his] the person's fitness, thorough administrative ability and knowledge of and experience in the nursing field.
- (2) The executive secretary shall, under the supervision of the board, administer this chapter and the rules [and regulations] and orders established thereunder and perform [such] other duties as the board may require; [he] the executive secretary shall be in charge of the offices of the board and responsible to the board for the preparation of reports and the collection and dissemination of data and other public information relating to nursing."

SECTION 5. Section 457-7, Hawaii Revised Statutes, is amended to read as follows:

“§457-7 Registered nurses; qualifications; licenses; fees; title; existing licensed nurses; verification of licenses. (a) An applicant for a license to practice nursing as a registered nurse shall submit to the board written evidence, verified by oath or affirmation, that the applicant:

- (1) Has completed an approved high school course of study or the equivalent thereof as determined by the appropriate educational agency; and
- (2) Has completed the required state accredited nursing education program.

(b) Licenses shall be granted either:

- (1) By examination: The applicant shall be required to pass a written examination in [such] nursing subjects as the board may determine. Upon successfully passing [such] the examination, the board shall issue to the applicant a license to practice nursing as a registered nurse; or
- (2) By endorsement: The board may issue a license to practice nursing as a registered nurse by endorsement to an applicant who has been licensed as a registered nurse under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the qualifications required of registered nurses in this State at the time of graduation.

(c) The applicant applying for a license to practice as a registered nurse shall pay a fee of \$30 to the board and a fee of \$10 for each reexamination.

(d) Any person who holds a license to practice nursing as a registered nurse in this State shall have the right to use the title “Registered Nurse” and the abbreviation “R.N.” No other person shall assume [such] the title or use [such] the abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a registered nurse.

(e) Any person holding a license or certificate of registration to practice nursing as a registered nurse issued by the board which is valid on June 12, 1970, shall be deemed to be licensed as a registered nurse under this chapter.

(f) Any person who requests to take the licensing examination to qualify for a license in [a sister] another state shall pay a proctoring fee of \$10 to the board.

(g) Any person who requests verification of a registered nurse license to a nursing board of another state shall pay a fee of \$5.”

SECTION 6. Section 457-8, Hawaii Revised Statutes, is amended to read as follows:

“§457-8 Licensed practical nurse; qualifications; license; fees; title; existing licensed nurses; verification of licenses. (a) An applicant for a license to practice nursing as a licensed practical nurse shall submit to the board written evidence, verified by oath or affirmation, that the applicant:

- (1) Has completed an approved high school course of study or the equivalent thereof as determined by the appropriate educational agency[.]; and

- (2) Has completed a prescribed curriculum in a state-accredited program to prepare for a licensed practical nurse and holds a diploma or certificate therefrom.
- (b) Licenses shall be granted either:
 - (1) By examination: The applicant shall be required to pass a written examination in [such] nursing subjects as the board may determine. Upon successfully passing [such] the examination, the board shall issue to the applicant a license to practice nursing as a licensed practical nurse; or
 - (2) By endorsement: The board may issue a license to practice nursing as a licensed practical nurse by endorsement to any applicant who has been licensed as a licensed practical nurse, or a person entitled to perform similar services under a different title, under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the requirements for licensed practical nurses in this State at the time of graduation.
- (c) The applicant applying for a license to practice as a licensed practical nurse shall pay a fee of \$15 to the board and a fee of \$10 for each reexamination.
- (d) Any person who holds a license to practice nursing as a licensed practical nurse in this State shall have the right to use the title "Licensed Practical Nurse" and the abbreviation "L.P.N.". No other person shall assume [such] the title or use [such] the abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a licensed practical nurse.
- (e) Any person holding a license to practice nursing as a licensed practical nurse issued by the board which is valid on June 12, 1970, shall be deemed to be licensed as a licensed practical nurse under this chapter.
- (f) Any person who requests to take the licensing examination to qualify for a license in [a sister] another state shall pay a proctoring fee of \$10 to the board.
- (g) Any person who requests verification of a practical nurse license to a nursing board of another state shall pay a fee of \$5."

SECTION 7. Section 457-9, Hawaii Revised Statutes, is amended to read as follows:

"§457-9 Renewal of license. The license of every person licensed under this chapter shall be renewed biennially, except as hereinafter provided. Biennially in each odd-numbered year on or before July 1, the board shall mail an application for renewal of license to every person to whom a license was issued or renewed during the biennium. The applicant shall fill in the application blank and return it to the board with a renewal fee of \$10 before June 30. Upon receipt of the application and fee the board shall verify the accuracy of the application and issue to the applicant a certificate of renewal for the biennium beginning July 1 and expiring two years hence on June 30. [Such] The renewal shall render the holder thereof a legal practitioner of nursing for the period stated on the renewal form.

Any licensee who allows [his or her] a license to lapse by failing to renew the license as provided above may be reinstated by the board on satisfactory explanation of the failure to renew and on payment of the renewal fee and a penalty fee of \$5.

Any person practicing nursing during the time [his or her] the person's license has lapsed shall be considered an illegal practitioner and shall be subjected to the penalties provided for violations of this chapter.

A nurse who does not engage in nursing in the State during the succeeding year shall not be required to pay the renewal fee as long as [he or she] the nurse remains inactive. Should [he or she] the nurse wish to resume nursing at some future time [he or she], the nurse shall so notify the board and remit the renewal fee for the current biennial period."

SECTION 8. Section 457-11, Hawaii Revised Statutes, is amended to read as follows:

"§457-11 Nursing education programs. (a) An institution desiring to conduct a nursing education program to prepare registered or licensed practical nurses shall apply to the board and submit evidence that:

- (1) It is prepared to carry out a program in undergraduate nursing education or a program in the training of nurses as licensed practical nurses, as the case may be; and
- (2) It is prepared to meet [such] the standards as shall be established by law and by the board.

(b) A survey of the institution and its undergraduate or practical nursing program shall be made by the executive secretary or other authorized employee of the board, who shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements for an accredited nursing education program are met, the program shall be accredited as a nursing education program for registered or licensed practical nurses.

(c) From time to time as deemed necessary by the board, it shall be the duty of the board, through its authorized representative, to survey nursing education programs in the State. Written reports of the surveys shall be submitted to the board. If the board determines that any accredited nursing education program is not maintaining the standards required by law and by the board, notice thereof in writing specifying the discrepancies shall be immediately given to the institution conducting the program. A program which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be discontinued after a hearing held in conformance with chapter 91."

SECTION 9. Section 457-12, Hawaii Revised Statutes, is amended to read as follows:

"§457-12 Discipline; grounds; proceedings; hearings. (a) The board shall have the power to deny, revoke, or suspend any license to practice nursing as a registered nurse or as a licensed practical nurse issued by the board or applied for in accordance with this chapter, or otherwise to discipline a licensee upon proof that the person:

- (1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing as a registered nurse or as a licensed practical nurse; or
- (2) Is guilty of gross immorality; or

- (3) Is unfit or incompetent by reason of negligence, habits, or other causes; or
- (4) Is habitually intemperate or is addicted to the use of habit-forming drugs; or
- (5) Is mentally incompetent; or
- (6) Is guilty of unprofessional conduct; or
- (7) Has willfully or repeatedly violated any of the provisions of this chapter.

(b) Upon filing of a sworn or affirmed complaint with the board charging a person with having been guilty of any of the actions specified as a ground for disciplinary action, the executive secretary of the board shall fix a time and place for a hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing to be served on the accused at least ten days prior thereto. When personal service cannot be effected and [such] the fact is certified on oath or affirmation by any person authorized to make legal service, the executive secretary of the board shall cause to be published, twice in each of two successive weeks, a notice of the hearings in a newspaper published in the county in which the accused last practiced according to the records of the board and shall mail a copy of the charges and of [such] the notice to the accused at [his or her] the accused's last known address.

(c) When publication of the notice is necessary, the date of the hearing shall not be less than ten days after the last date of the notice. The attendance of witnesses and the production of books, papers, and documents at the hearing may be compelled by subpoenas issued by the board, which shall be served in the same manner as subpoenas of circuit courts. At the hearing the board shall administer oaths as may be necessary for the proper conduct of the hearing. The board shall not be bound by strict rules of procedure or by the laws of evidence in the conduct of its proceedings, but the determination shall be based upon sufficient legal evidence to sustain it. At the hearing the accused shall have the right to appear either personally or by counsel, or both, in [his or her] the accused's own behalf, to cross-examine witnesses, and to have subpoenas issued by the board. If the accused is found guilty of the charges, the board may refuse to issue a license to the applicant or may revoke, suspend a license or otherwise discipline a licensee. A revoked or suspended license may be reissued after one year in the discretion of the board."

SECTION 10. Section 457-13, Hawaii Revised Statutes, is amended to read as follows:

"§457-13 Exceptions. This chapter does not prohibit:

- (1) The furnishing of nursing assistance in an emergency[.];
- (2) The practice of nursing which is incidental to their program of study by students enrolled in nursing education programs accredited by the board[.];
- (3) The practice of nursing by permit pending the results of licensing examination by graduates of schools whose accreditation is recognized by the board; providing the candidates enter the first licensing examination scheduled by the board following graduation[.];

- (4) The practice of any legally qualified nurse of another state who is employed by the United States or any bureau, division, or agency thereof, while in the discharge of [his or her] the nurse's official duties [.]₂
- (5) The practice of nursing in connection with healing by prayer or spiritual means alone in accordance with the tenets and practice of any well recognized church or religious denomination, provided that no person practicing such nursing [holds himself out to be] claims to practice as a registered nurse or a licensed practical nurse [.]₂ or
- (6) The administration of oral and topical medication by school health aides as provided in section 321-242."

SECTION 11. Section 457-14, Hawaii Revised Statutes, is amended to read as follows:

"§457-14 Violations of chapter; penalties. It shall be a misdemeanor for any person, including any corporation, association, or individual to:

- (1) Sell or fraudulently obtain or furnish any nursing diploma, license, renewal, or record or aid or abet therein; or
- (2) Practice nursing as defined by this chapter under cover of any diploma, license, or record illegally or fraudulently signed or issued unlawfully or under fraudulent representation; or
- (3) Practice nursing as a registered or as a licensed practical nurse unless licensed to practice under this chapter; or
- (4) Use in connection with [his or her] the person's name any designation tending to imply that [he or she] the person is a registered nurse or a licensed practical nurse unless licensed to practice under this chapter; or
- (5) Practice nursing as a registered nurse or as a licensed practical nurse during the time [his or her] the person's license issued under this chapter is suspended or revoked; or
- (6) Conduct a nursing education program to prepare for a registered nurse or licensed practical nurse unless the program has been accredited by the board; or
- (7) Otherwise violate any provisions of this chapter.

[Such misdemeanor] Any of these misdemeanors shall be punishable by a fine of not more than \$500 for a first offense. Each subsequent offense shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

SECTION 12. Section 457-15, Hawaii Revised Statutes, is amended to read as follows:

"§457-15 Injunctive relief. The practice of nursing as a registered nurse or as a licensed practical nurse by any person who has not been issued a license under this chapter or whose license has been suspended or revoked or has expired is declared to be inimical to the public welfare and to constitute a public nuisance. The board of nursing may, through the attorney general, apply for an injunction in any court of competent jurisdiction to enjoin any person who has not been issued a license or whose license has been suspended or revoked or expired, from practicing nursing as a registered nurse or as a licensed practical nurse; and, upon the filing of a

verified petition in [such] court, the court or any judge thereof, if satisfied by affidavit, or otherwise, that [such] the person is or has been practicing nursing as a registered nurse or as a licensed practical nurse without having been issued a license, or after [his] the person's license has been suspended or revoked or expired, may issue a temporary injunction, without notice or bond, enjoining the defendant from further practicing nursing as a registered nurse or as a licensed practical nurse. A copy of [said] the verified petition shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. If it be established that the defendant has been or is practicing nursing as a registered nurse or as a licensed practical nurse without having been issued a license or has been or is practicing nursing as a registered nurse or as a licensed practical nurse after [his] the defendant's license has been revoked, or expired, the court, or any judge thereof, may enter a decree perpetually enjoining [said] the defendant from further practicing nursing as a registered nurse or as a licensed practical nurse. In case of violation of any injunction issued under this section, the court, or any judge thereof, may summarily try and punish the offender for contempt of court. [Such] The injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter."

SECTION 13. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 14. This Act shall take effect upon its approval.

(Approved May 26, 1983.)

Note

1. Prior to amendment, "the" appeared here.

ACT 120

S.B. NO. 640

A Bill for an Act Relating to Limitation of Actions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 657-8, Hawaii Revised Statutes, is amended to read as follows:

"§657-8 Limitation of action for damages based on construction to improve real property. No action to recover damages for any injury to property, real or personal, [or for bodily injury or wrongful death,] arising out of any [condition of an improvement to real property, nor any action for contribution or indemnity for damages sustained on account of such injury, shall be brought against the owner of the real property or any other person or the surety of a person having an interest therein or in the improvement or against any person or the surety of a person constructing, altering, or repairing the improvement, or manufacturing or furnishing materials incorporated in the improvement, or performing or furnishing services in the design, planning, supervision, observation of construction or administration of construction contracts for any construction, alteration or repair of the] deficiency or

neglect in the planning, design, suretyship, manufacturing and supplying of materials, construction, supervision and administering of construction, and observation of construction relating to an improvement to real property shall be commenced more than two years after the cause of action has accrued, but in any event not more than [six] ten years after the date of completion of the improvement. This section shall not apply to actions for damages against the owner or any other person having an interest in the real property or improvement based on their negligent conduct in the repair or maintenance of the improvement or to actions for damages against surveyors for their own errors in boundary surveys. The term "improvement" as used in this section shall have the same meaning as in section 507-41 and the phrase "date of completion" as used in this section shall mean the time when there has been substantial completion of the improvement or the improvement has been abandoned. The filing of an affidavit of publication and notice of completion with the circuit court where the property is situated in compliance with section 507-43(f) shall be prima facie evidence of the date of completion. Inclusion of sureties in this section shall not be construed to prevent, limit, or extend any shorter period of limitation applicable to sureties provided for in any contract or bond or any other statute, nor to extend or add to the liability of any surety beyond that for which the surety agreed to be liable by contract or bond."

SECTION 2. The amendments made by this Act shall apply to any action or proceeding which is commenced on or after the date of its approval and, to the extent permitted by law, to any action or proceeding which is pending on the date of such approval.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1983.)

ACT 121

S.B. NO. 822

A Bill for an Act Relating to the Developmental Disabilities Council.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the developmental disabilities council presently consists of fifteen members representing various state agencies and private citizens and consumers. The legislature finds that the council should include additional consumer representatives and representatives of agencies and groups not currently represented on the council. The purpose of this Act is to increase the membership of the developmental disabilities council.

SECTION 2. Section 333E-4, Hawaii Revised Statutes, is amended to read as follows:

"§333E-4 Membership on the state council. The state council shall consist of [fifteen] twenty-five voting members, appointed by the governor for staggered terms in the manner prescribed by section 26-34. The members of the

council shall be residents of the State. The council shall at all times include in its membership representatives of the principal state agencies, higher education training facilities, and local agencies or nongovernmental agencies or groups concerned with services to persons with developmental disabilities in this State.

- (1) At least one-half of the membership of the council shall consist of [consumer persons] consumers who:
 - (A) Are persons with developmental disabilities or their parents, or
 - (B) Immediate relatives or guardians of such persons, and who are not employees of a state agency which receives funds or provides services under the state council, or managing employees, or persons with an ownership or controlling interest of any other entity which receives funds or provides services under the state council.
- (2) Of the members of the council described in paragraph (1) [of this section]:
 - (A) At least one-third shall be persons with developmental disabilities, and
 - (B) At least one-third shall be immediate relatives or guardians of such person, of which at least one shall be an immediate relative or guardian of an institutionalized person with developmental disabilities.
- (3) The members of the state council shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this [division.] chapter."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1983.)

ACT 122

S.B. NO. 824

A Bill for an Act Relating to Developmental Disabilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 333, part II, Hawaii Revised Statutes, is repealed.

SECTION 2. Chapter 333E, Hawaii Revised Statutes, is amended by adding a new part II to be appropriately designated and to read as follows:

"PART II. COMMUNITY SERVICES FOR THE DEVELOPMENTALLY DISABLED

§333E- Programs. The department of health may provide for the establishment and operation of community services for the developmentally disabled, which shall include, but not be limited to, the following:

- (1) Collaborative and cooperative services with public health and other groups for programs of prevention of developmental disabilities;
- (2) Informational and educational services to the general public, and to lay and professional groups;
- (3) Consultation services to the judicial branch of government, to educational institutions, and to health and welfare agencies whether such agencies are public or private;
- (4) Early identification and prevention of handicapping conditions;
- (5) Diagnostic, training and therapy, evaluation, and referral services;
- (6) Activity programs;
- (7) Respite and homemaker services;
- (8) Counseling services for the developmentally disabled and their families;
- (9) Coordination, referral, and follow along services;
- (10) Community residential living alternatives; and
- (11) Other services or facilities necessary to provide a continuum of care for the developmentally disabled.

§333E- Eligibility. The department of health, in consultation with consumers, private agencies, and other interested parties, shall establish eligibility requirements for participation in services provided under this part.

§333E- Authority of director of health to enter into agreements; make disbursements of state funds. (a) The director of health may enter into agreements with the federal government, other state departments and agencies, and political subdivisions of the State; enter into assistance agreements with private groups, institutions, or corporations; allocate and expend any funds appropriated for the purposes of this part; and do all things necessary to accomplish the purposes and provisions of this part.

(b) To the extent the director of health deems it appropriate, the director may require a recipient of any state funds to contribute moneys, facilities, or services for carrying out the program or project.

(c) The director of health shall establish standards and review procedures to assure that private groups, institutions, or corporations provide the services and facilities necessary to accomplish the purposes for which funds are disbursed.

§333E- Rules. The director of health shall adopt rules pursuant to chapter 91 necessary for the purposes of this part."

SECTION 3. Sections 333E-1 to 333E-5, Hawaii Revised Statutes, are designated as "Part I. General Provisions" of chapter 333E, Hawaii Revised Statutes.

SECTION 4. This Act shall take effect on July 1, 1983.

(Approved May 26, 1983.)

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291C-53, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The director of transportation by order, and the counties by ordinance, may regulate or prohibit the use of any controlled-access roadway or highway within their respective jurisdictions by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic. Persons operating motorcycles which are otherwise permitted on a controlled-access roadway or highway shall be permitted to use any carpool lane designated on such roadway or highway. For the purposes of this subsection, “carpool lane” means a designated lane of a laned roadway where the use of such designated lane is restricted to vehicles carrying at least three persons and to other vehicles enumerated by order or ordinance.

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 26, 1983.)

ACT 124

H.B. NO. 118

A Bill for an Act Relating to Statutory Revision: Amending or Repealing Various Provision of the Hawaii Revised Statutes and the Session Laws of Hawaii for the Purpose of Correcting Errors, Clarifying Language, Correcting References, and Deleting Obsolete or Unnecessary Provisions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 11-17, Hawaii Revised Statutes, is amended to read as follows:

“§11-17 Removal of names from register [upon failure to vote;] ,when; reregistration. (a) The clerk [shall], not later than 4:30 p.m. on the sixtieth day after every general election, shall remove the name of any registered voter who did not vote in the election if the person also did not vote in the preceding primary election with the exception of (1) those who voted in the special election for election of members of the board of trustees of the office of Hawaiian affairs held in conjunction with the general election; or (2) those who submitted written requests for absentee ballots as provided in section 15-4. For this purpose “[to] vote” means the depositing of the ballot in the ballot box whether the ballot is blank or later rejected for any reason. In the case of voting machines “[to] vote” means that the voter has activated the proper mechanism and fed the vote into the machine.

The clerk shall also remove the name of any person registered to vote in the special election for election of members of the board of trustees of the office of Hawaiian affairs, who did not vote in the special election, did not vote in the general election held in conjunction with the special election, and did not vote in the preceding primary election.

(b) Any person whose name has been removed from the register [may], at any time prior to the closing of the register, as provided in section 11-24, may have that person's name restored in the register by presenting oneself to the clerk and reregistering pursuant to section 11-15, or by making application by mail or otherwise pursuant to procedures established by the clerk. The clerk shall require satisfactory evidence to establish the identity of the applicant. The names of all those persons shall be reentered in the register."

SECTION 2. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The board of acupuncture, [cemetery and mortuary board,] board of [accountants,] public accountancy, board of barbers, board of cosmetology, boxing commission, board of chiropractic examiners, contractors license board, board of dental examiners, board of electricians and plumbers, elevator mechanics licensing board, board of registration for professional engineers, architects, and surveyors, factory built housing advisory board, board of hearing aid dealers and fitters, board of massage, board of medical examiners, motor vehicle industry licensing board, motor vehicle repair industry board, board of examiners in naturopathy, board of nursing, board of examiners of nursing home administrators, board of dispensing opticians, board of examiners in optometry, board of osteopathic examiners, pest control board, board of pharmacy, board of practicing psychologists, board of detectives and guards, real estate commission, board of veterinary examiners, and speech pathology and audiology are placed within the department of commerce and consumer affairs for administrative purposes."

SECTION 3. Section 89-3.5, Hawaii Revised Statutes, is amended to read as follows:

"[§89-3.5] Religious exemption from support of employee organization. Notwithstanding any other provision of law to the contrary, any employee who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting employee organizations shall not be required to join or financially support any employee organization as a condition of employment; except that an employee may be required in a contract between an employees' employer and employee organization in lieu of periodic dues and initiation fees, to pay sums equal to the dues and initiation fees to a nonreligious, nonlabor organization charitable fund exempt from taxation under section 501(c)(3) [of title 26] of the Internal Revenue Code, chosen by the employee from a list of at least three funds, designated in the contract or if the contract fails to designate any funds, then to any fund chosen by the employee. If an employee who holds conscientious objections pursuant to this section requests the employee organization to use the grievance-arbitration procedure on the employee's behalf, the employee organization is authorized to charge the employee for the reasonable cost of using the procedure."

SECTION 4. Section 124A-68, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A person charged with desertion or absence [with] without leave in time of war, or with aiding the enemy or with mutiny may be tried and punished at any time without limitation.”

SECTION 5. Section 176D-4, Hawaii Revised Statutes, is amended to read as follows:

“[§176D-4] General powers and duties of the board of land and natural resources. The board of land and natural resources shall establish and administer the instream use protection program provided by this chapter for windward oahu districts. In carrying out [the provisions of] this chapter, the board [will] shall cooperate with the United States government or any of its agencies, other state agencies, and the county governments and any of their agencies. In the performance of its duties the board shall:

- (1) Establish instream flow standards for the windward oahu districts whenever necessary to protect the public interest in waters of the State.
 - (A) The board [may], on its own motion, may determine that the public interest in the waters of the State requires the establishment of an instream flow standard for streams in windward Oahu districts.
 - (B) In acting upon the establishment of instream flow standards, the board shall set forth in writing its conclusion that the public interest does or does not require, as is appropriate, an instream flow standard to be set for the stream, the reasons therefor, and the findings supporting the reasons.
 - (C) Each instream flow standard shall describe the flows necessary to protect the public interest in the particular stream. Flows shall be expressed in terms of variable flows of water necessary to protect adequately fishery, wildlife, recreational, aesthetic, scenic, or other beneficial instream uses in the stream in light of existing and potential water developments.
 - (D) Establishment or modification of an instream flow standard shall be initiated by the board by providing notice of its intention to set an instream flow standard in a newspaper of general circulation published in the vicinity of the stream in question, and to persons who have previously requested such notice.
 - (E) After giving notice of its intention to set an instream flow standard, the board or other agencies in participation with the board shall investigate the stream. During the process of this investigation, the board shall consult with and consider the recommendations of the department of health, the United States Fish and Wildlife Service, and other agencies having interest in or information on the stream, and may consult with and consider the recommendations of persons having interest in or information on the stream. In formulating the proposed standard the board shall weigh the importance of the present or potential instream values with the importance of the present or potential uses of water from the stream for non-instream purposes, including the economic

- impact of restriction of such uses. In order to avoid or minimize the impact on existing uses of preserving, enhancing, or restoring instream values, the board shall consider physical solutions, including water exchanges, modifications of project operations, changes in points of diversion, changes in time and rate of diversion, and uses of water from alternative sources or any other solution.
- (F) Before adoption of an instream flow standard or modification of an established instream flow standard, the board shall give notice and hold a hearing on its proposed standard or modification.
- (2) Establish interim instream flow standards.
 - (A) Any person may petition the board to adopt an interim instream flow standard for streams of the windward Oahu districts in order to protect the public interest pending the establishment of a permanent instream flow standard.
 - (B) Any interim instream flow standard adopted under this section shall terminate upon the establishment of a permanent instream flow standard for the stream on which the interim standard was adopted.
 - (C) A petition to adopt an interim instream flow standard under this section shall set forth data and information concerning the need to protect and conserve beneficial instream uses of water, and any other relevant and reasonable information required by the board.
 - (D) In considering a petition to adopt an interim instream flow standard, the board shall weigh the importance of the present or potential instream values with the importance of the present or potential uses of water for non-instream purposes.
 - (E) The board shall grant or reject a petition to adopt an interim instream flow standard under this section within one hundred [eight] eighty days of the date the petition is filed. The one hundred eighty days may be extended a maximum of one hundred eighty days at the request of the petitioner and subject to the approval of the board.
 - (3) Protect stream channels from alteration whenever practicable in windward Oahu to provide for fishery, wildlife, recreational, aesthetic, scenic, and other beneficial instream uses.
 - (A) The board shall require persons to obtain a permit from the board prior to undertaking a stream channel alteration in windward Oahu.
 - (B) The board shall establish guidelines for processing and considering applications for stream channel alterations.
 - (C) The board shall require filing fees by users to accompany each application for stream channel alteration.
 - (4) Establish an instream flow program for windward Oahu to protect, enhance, reestablish, where practicable, beneficial instream uses of water. The board shall conduct investigations, and collect instream

flow data including fishing, wildlife, aesthetic, recreational, water quality, and ecological information and basic streamflow characteristics necessary for determining instream flow requirements."

SECTION 6. Section 176D-7, Hawaii Revised Statutes, is amended to read as follows:

"**[§176D-7] [Administrative and judicial] Judicial review.** Any person who is aggrieved or adversely affected by an order or action by the board shall be entitled to judicial review in accordance with chapter 91."

SECTION 7. Section 205A-1, Hawaii Revised Statutes, is amended by amending the definition of "coastal zone management area" to read:

"(2) "Coastal zone management area" means the special management area after compliance pursuant to section 205A-23 [of this chapter], and the waters from the shoreline to the seaward limit of the State's jurisdiction and any other area which the [head] lead agency may designate for the purpose of administering the coastal zone management program;"

SECTION 8. Section 205A-22, Hawaii Revised Statutes, is amended by amending the definition of "valuation" to read:

"(9) "Valuation" shall be determined by the authority and means the estimated cost to replace the structure in kind, based on current replacement costs, or in the cases of other development, as defined in paragraph **[§](3)(A)[§]** above, the fair market value of the development."

SECTION 9. Section 377-4.5, Hawaii Revised Statutes, is amended to read as follows:

"**[§377-4.5] Religious exemption from labor organization membership.** Notwithstanding any other provision of law to the contrary, any employee who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support any labor organization as a condition of employment; except that an employee may be required in a contract between an employees' employer and a labor organization in lieu of periodic dues and initiation fees, to pay sums equal to the dues and initiation fees to a nonreligious, nonlabor organization charitable fund exempt from taxation under section 501(c)(3) [of title 26] of the Internal Revenue Code, chosen by an employee from a list of at least three funds, designated in the contract or if the contract fails to designate any funds, then to any fund chosen by the employee. If any employee who holds conscientious objections pursuant to this section requests the labor organization to use the grievance-arbitration procedure on the employee's behalf, the labor organization is authorized to charge the employee for the reasonable cost of using the procedure."

SECTION 10. Section 383-29.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) For purposes of this section, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than

the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than [[eighty]] per cent of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974."

SECTION 11. Section 417-45, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any corporation organized or existing under the laws of this State or under the laws of any other state or jurisdiction subject to the laws of the United States, if the laws of the other state or jurisdiction permit a merger, owning at least ninety per cent of the outstanding shares of each class of the stock of each of two or more other corporations organized or existing under the laws of this State, or under the laws of any other state or jurisdiction subject to the laws of the United States, if the laws of the other state or jurisdiction permit such a merger, may file in the office of the director of [regulatory agencies] commerce and consumer affairs a certificate of such ownership and of merger of the subsidiary corporations in its name and under its corporate seal and in the name of the surviving subsidiary corporation and under its corporate seal. The certificate shall be signed by any two authorized officers, who are not the same person, of each of the parent corporation and the surviving subsidiary corporation and shall set forth a copy of the resolutions of each of the board of directors of the parent corporation and the board of directors of the surviving subsidiary corporation to merge one or more of the subsidiary corporations into the other and surviving subsidiary corporation and to cause the surviving subsidiary corporation to assume all of the other subsidiary corporation's or corporations' obligations and the date of the adoption thereof; provided that if the parent corporation does not own all the outstanding stock of the subsidiary corporation parties to a merger as aforesaid, the resolution of the board of directors of the parent corporation shall state the terms and conditions of the merger, including, if such is the case, the securities, cash, or other consideration into which shares of stock of the subsidiary corporation or corporations not owned by the parent corporation are to be converted."

SECTION 12. Section 560:5-309, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In a proceeding for the appointment or removal of a guardian of the person of an incapacitated person other than the appointment of a temporary guardian or temporary suspension of a guardian, notice of the time and place of hearing shall be given by the petitioner to each of the following:

- (1) The ward or the person concerning whom the proceeding has been commenced and the [ward] ward's or person's spouse, legal parents, and adult children;
- (2) Any person who is serving as the guardian of the [ward] ward's or person's estate or who has care and custody of the ward or person; and
- (3) In case no other person is notified under paragraph (1), at least one of the [ward] ward's or person's closest adult relatives, if any can be found."

SECTION 13. Section 581-1, Hawaii Revised Statutes, is amended to read as follows:

"§581-1 Office of children and youth; appointments. [](a) There is established within the office of the governor, an office of children and youth.[]

(b) The director of the office shall be known as the director of the office of children and youth, hereinafter referred to as director. The director shall have training [and/or experience, or both, in the field of social work, education, public health, or other related fields; direct experience in programs and services related to children and youth; and experience in a supervisory, consultative, or administrative position. The director shall be appointed by the governor without regard to chapters 76 and 77. [Effective July 1, 1981, the salary of the director shall be \$41,250.] Effective July 1, 1982, the salary of the director shall be \$44,550. The director shall be included in any benefit program generally applicable to the officers and employees of the State."

SECTION 14. Section 704-402, Hawaii Revised Statutes, is amended by amending the title to read:

"§704-402 Physical or mental disease, disorder, or defect excluding responsibility is [a] an affirmative defense; form or verdict and judgment when finding of irresponsibility is made."

SECTION 15. Act 191, Session Laws of Hawaii 1977, is amended by amending section 2 to read as follows:

"SECTION 2. The Hawaii Revised Statutes[, as amended, are further amended] is amended by amending the words ["Fireman and Policeman"] "fireman" and "policeman" to read ["Firefighters and Police Officers"] "firefighters" and "police officers" wherever the same appear therein."

SECTION 16. Act 185, Session Laws of Hawaii 1981, is amended by amending section 1 to read as follows:

"SECTION 1. The [purpose of this Act is to amend the] Hawaii Revised Statutes is amended by deleting the terms "leprosy" and "leprosy patient", and substituting in lieu thereof the [term] terms "Hansen's disease" and "Hansen's disease sufferer".

SECTION 17. Act 204, Session Laws of Hawaii 1982, is amended by amending section 8 to read as follows:

"SECTION 8. The Hawaii Revised Statutes is amended by amending the title "department of regulatory agencies" wherever it appears therein to "department of commerce and consumer affairs"[.] and by amending the title "director of regulatory agencies" wherever it appears therein to "director of commerce and consumer affairs" as the context requires."

SECTION 18. This Act shall be amended to conform to all other acts passed by the legislature during this Regular Session of 1983, whether enacted before or after the effective date of this Act, unless such other acts specifically provide otherwise.

SECTION 19. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 20. This Act shall take effect upon its approval.

(Approved May 26, 1983.)

ACT 125

H.B. NO. 234

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, As Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Purpose.** The purpose of this bill is to allow the Department of Hawaiian Home Lands greater flexibility in the administration of its lands, through the disposition of licenses. Such license dispositions are to be on such terms, conditions and restrictions as the Commission shall determine, provided that any such license shall not in any way restrict the areas required by the department in carrying on its duties, nor interfere in any way with the department's operation or maintenance activities.

SECTION 2. Section 207 of the Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (c) to read:

"(c)(1) The department is authorized to grant licenses [for terms of not to exceed twenty-one years in each case, to public utility companies or corporations] as easements for railroads, telephone lines, electric power and light lines, gas mains, and the like. The department is also authorized to grant licenses for lots within a district in which lands are leased under the provisions of this section, to[-];

(A) [churches,] Churches, hospitals, public schools, post offices, and other improvements for public purposes; and

(B) [theaters,] Theaters, garages, service stations, markets, stores, and other mercantile establishments (all of which shall be owned by lessees of the department or by organizations formed and controlled by said lessees).

(2) The department is also authorized, with the approval of the governor, to grant licenses to the United States for terms not to exceed five years, for reservations, roads, and other rights-of-way, water storage and distribution facilities, and practice target ranges[:]; provided[,] that any such license may be extended from time to time by the department, with the approval of the governor, for additional terms of three years[: provided further, that any such license shall not restrict the areas required by the department in carrying on its duties, nor interfere in any way with the department's operation on maintenance activities].

(3) Any license issued under this subsection shall be subject to such terms, conditions and restrictions as the department shall determine and shall not restrict the areas required by the department in carrying on its duties, nor interfere in any way with the department's operation or maintenance activities."

SECTION 3. The provisions of these legislative amendments are declared to be severable, and if any section, sentence, clause or phrase of these legislative

amendments or any of them, or the application thereof to any person or circumstances is held ineffective because there is a requirement of having the consent of the United States to take effect, then, that portion only shall take effect upon the granting of consent by the United States and the effectiveness of the remainder of these legislative amendments or the application thereof shall not be affected.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 26, 1983.)

ACT 126

H.B. NO. 268

A Bill for an Act Relating to State Population and Planning.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 224, Hawaii Revised Statutes, is repealed.

SECTION 2. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§201- Population planning and management. The department shall:

- (1) Research ways to manage the State's population size, rate of growth, and distribution with regard to economic, environmental, and social impacts on the State;
- (2) Review governmental plans, programs, and activities which could significantly affect the State's population characteristics, and report findings as appropriate;
- (3) Recommend administrative and legislative actions to improve the planning and management of the State's population size, rate of growth, and distribution;
- (4) Assist and coordinate the efforts of governmental and private agencies in planning, implementing, and evaluating activities which relate to the management of the State's population size, rate of growth, and distribution;
- (5) Examine relevant national and international policies, programs, and demographic changes for their impact on managing the State's population size, rate of growth, and distribution; and
- (6) Promote public awareness and understanding of the need to plan and manage the State's population size, rate of growth, and distribution."

SECTION 3. Section 222-2, Hawaii Revised Statutes, is amended to read as follows:

"§222-2 Duties of the center. The center shall:

- (1) Serve as a research arm of the commission on the year 2000, [the state commission on population and the Hawaiian future,] the commission on manpower and full employment, and such other public agencies as may properly require its services and assistance in locating research

experts for particular studies and in working out the dimensions and contractual arrangements for such studies, the costs and final decisions of which shall be the responsibility of the requesting agencies.

- (2) Encourage and promote invention and experimentation in futures study, planning, and design.
- (3) Maintain an inventory of studies, research, and other information, including groups or persons concerned with futures study, planning, and design applicable to the State.
- (4) Engage in the development and acquisition of models, techniques, and other tools, and capability for the effective monitoring, measuring, and forecasting of crucial aspects of Hawaii's socio-economic-environmental system over the immediate, intermediate, and long range future, including the design of systems to assist and stabilize the State's construction industry."

SECTION 4. Three permanent positions now authorized for the commission on population and the Hawaiian future, including the executive secretary, one program specialist (population) IV, and the secretary II shall be transferred to the department of planning and economic development.

No officer or employee of the State shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which the officer or employee is transferred or appointed; and provided further that subsequent changes in status shall be made pursuant to applicable civil service and compensation laws.

SECTION 5. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the commission on population and the Hawaiian future, shall be transferred to the department of planning and economic development.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 7. This Act shall take effect July 1, 1983.

(Approved May 26, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

SECTION 1. Section 408-15, Hawaii Revised Statutes, is amended by amending subsections (j) and (1) to read as follows:

- “(j) As an alternative to the interest authorized by subsection (b):
- (1) An industrial loan company may contract for and receive interest at a rate not exceeding eighteen per cent per year on the unpaid principal balance of a loan, for a loan period of no longer than fifteen years; provided that [retail installment contracts as defined in section 476-1,] unsecured loans for less than \$5,000, and loans for less than \$7,500 secured only by personal property shall not be contracted under this subsection for a loan period of longer than six years. Loans providing for repayment on demand may be contracted for under this subsection and subject to a maturity date not later than six years from the date of the note. For loans contracted under this subsection with a term exceeding six years, the note shall provide for repayment of the loan in equal monthly installments over the term of the loan with a final payment not exceeding twice the monthly payment. Upon the maturity date of the contract, the rate of interest on the unpaid principal balance of the loan may be twelve per cent a year, the original contract rate of interest, or, in the case of any extension or deferral, the rate of interest permitted by this subsection on the amount extended or deferred, whichever is greatest.
- (2) For loans made or committed to after May 31, 1980, and prior to July 1, 1985, or made before May 31, 1980, and extended or deferred at maturity between May 31, 1980, and July 1, 1985, the maximum rate of interest permitted by this subsection shall be twenty-four per cent a year. This paragraph shall not apply to loans made or committed to prior to May 31, 1980, except loans made before May 31, 1980, and extended or deferred as provided in this paragraph.
- (3) In addition to collecting interest at the rate established in paragraph (1) or (2) of this subsection, an industrial loan company may collect late charges on delinquent installments. [Except as otherwise provided in chapter 476, late] Late charges shall not exceed five per cent of each delinquent contractual installment or portion thereof which remains unpaid on the due date agreed upon in the contract or \$50, whichever is less. The late charges shall not be collected more than once for the same delinquent installment. Delinquency occurs when the installment or payment is not paid on the due date agreed upon in the contract. The company shall give the borrower written notice of the assessment of late charges prior to the due date of the next contractual payment. No late charges shall be assessed after acceleration of the maturity of the contract.
- (1) Open-end loan. An industrial loan company shall also have power to make open-end loans subject to the following requirements:
 - (1) A licensee may not contract for and receive interest on an open-end loan in excess of that set forth in paragraph (j) (2) for loans made or committed to after May 31, 1980, and prior to July 1, 1985.

- (2) A licensee shall not compound interest by adding any unpaid interest authorized by this subsection to the unpaid principal balance of the borrower's open-end loan account; provided that the unpaid principal balance may include the charges (other than interest) authorized by subsection (h).
- (3) Interest authorized by this subsection shall be deemed not to exceed the maximum interest permitted by this section if such interest is computed for each billing cycle at an annual rate not to exceed that permitted in paragraph (j) (2) for loans made or committed to after May 31, 1980, and prior to July 1, 1985, by any of the following methods:
 - (A) By converting the annual rate to a daily rate and multiplying such daily rate by each daily unpaid principal balance of the open-end loan account in the billing cycle, and then adding the products of all such multiplications (in which case the daily rate is determined by dividing the authorized annual rate by 365); or
 - (B) By multiplying the annual rate by the average daily unpaid principal balance of the open-end loan account in the billing cycle (in which case the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle); or
 - (C) By converting the annual rate to a daily rate and multiplying such daily rate by the average daily unpaid principal balance of the open-end loan account in the billing cycle, and then multiplying the product so obtained by the number of days in the billing cycle (in which case the daily rate is determined by dividing the authorized annual rate by 365, and the average daily unpaid principal balance is the sum of the amounts unpaid for all days during the cycle divided by the number of days in the cycle); or
 - (D) By converting the annual rate to a daily rate by the method set forth in subparagraph (A) and multiplying such daily rate times the sum of all the daily unpaid principal balances of the open-end loan account during the billing cycle.
- (4) For all of the above methods of computation, the unpaid principal balance of any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and other permissible amounts (other than interest) charged to the borrower and deducting all payments and other credits made or received that day.
- (5) A licensee may increase the rate of interest being charged on the unpaid principal balance of the borrower's open-end loans, provided that with respect to open-end loans which are subject to the Federal Truth in Lending Act and the regulations of the Federal Reserve Board promulgated thereunder (i) that the licensee shall mail or deliver written notice of the change to the borrower at least thirty days prior to the effective date of the increase, unless the increase has been agreed to by the borrower, or the rate is increased as a result of the borrower's delinquency or default, and (ii) that the borrower may choose to terminate

the open-end loan account, and the licensee will allow the borrower to repay, under the existing open-end loan account terms, the unpaid balance incurred prior to the effective date of the increase, unless the borrower incurs additional debt on or after that date or otherwise agrees to the increase.

- (6) The borrower may pay all or any part of the unpaid balance in the borrower's open-end loan account, or the borrower may pay the unpaid balance in periodic installments, subject to minimum payment requirements, date of maturity, and other conditions as determined by the licensee and set forth in the open-end loan agreement.
- (7) A licensee may contract for and receive the fees, costs, and expenses permitted under subsection (h).
- (8) If credit life or disability insurance is provided, the additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for such insurance as such rate may be approved by the insurance commissioner pursuant to chapter 435, to the entire outstanding balances in the borrower's open-end loan account, or so much thereof as the insurance covers using any of the methods specified in this subsection for the calculation of loan interest. A licensee shall not be responsible for advancing premiums for credit life or disability insurance on a borrower who is delinquent in the making of the required minimum payments on the loan if one or more of such payments is past due for a period of ninety days or more; provided that the licensee shall advance to the insurer the amounts required to keep such insurance, if provided, in force during such ninety-day period, which amounts may be debited to the borrower's open-end loan account.
- (9) A licensee, until the open-end loan account is terminated, may retain any security interest in real or personal property given to secure the open-end loan account. Upon such termination the licensee shall, within ten business days following receipt of written demand by the borrower, release the mortgage, security interest, pledge, or other security for the open-end loan. For the purposes of this paragraph, termination of the open-end loan account means the cancellation, rescission, or other cessation of the open-end loan account by mutual agreement where the borrower has paid all amounts owed on the open-end loan account and the borrower has complied with all of the terms of the open-end loan agreement. Nothing in this paragraph shall preclude any licensee from exercising any other rights the licensee has to or in the security for open-end loans in the event of the borrower's default.
- [(10) If the open-end loan agreement is a retail installment contract, the licensee shall comply with the requirements of chapter 476.]

SECTION 2. Section 408-17, Hawaii Revised Statutes, is amended to read as follows:

"§408-17 Making and payment of loans; written receipts and statements; chart of rates, etc. Every licensee shall:

- (1) Deliver to the borrower at the time any contract other than a contract for an open-end loan is made a statement showing clearly and distinctly the terms, the amount, and date of the loan and of its maturity, the nature of the security, if any, the name and address of the borrower and of the licensee, the agreed rates of all charges and the actual effective rate of interest a year on the contract; this statement shall contain such additional information as the bank examiner may require;
- (2) Give to the borrower a plain and complete receipt for all payments of installments made on any loan at the time the payments are made or at the time of sending the borrower the periodic statement (as described in paragraph (5) of this section) for the billing cycle in which such payment was made, together with such additional information as the bank examiner may require;
- (3) Upon repayment in full of a loan other than an open-end loan, mark forthwith indelibly every application and security signed or executed by the borrower with respect to such loan (where the security does not also secure any other then existing obligation to the lender) with the word "paid" or "canceled", and release any mortgage, restore any pledge, cancel and return any note, and cancel and return any assignment given to the licensee by the borrower with respect to the loan (where the security does not also secure any other then existing obligation to the lender);
- (4) Deliver to the borrower at the time any open-end loan account is opened a copy of the open-end agreement and, to the extent the following items are not covered by the loan agreement, a statement showing clearly and distinctly the terms under which the open-end loans are to be made, the nature of the security, if any, the name and address of the borrower and of the licensee, the agreed rates of charges and the actual effective rate of interest under section 408-15, together with such additional information as the bank examiner may require; and
- (5) Except in the case of an open-end loan account which the licensee deems to be uncollectible or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver to the borrower, or any one thereof, at the end of each billing cycle in which there is an outstanding balance of more than \$1 in the open-end loan account or with respect to which a finance charge is imposed, a periodic statement of the dates and amounts of interest and other charges, advances, and other debits, and payments and other credits during the billing cycle, the balance of the account at the beginning of the billing cycle and as of the closing date of the billing cycle, and the minimum payment, if any, required on the account for the next billing cycle; together with such additional information as the bank examiner may require.

Every licensee shall during all business hours have prominently displayed in its office, located in such place and manner that all borrowers may be able clearly to

ACT 128

read the same, a rate chart which shall set forth in such form as the bank examiner shall prescribe, the effective rate of interest a year charged by the licensee for the borrowing of money.

Every promissory note taken or accepted by a licensee as evidence of a loan made to a borrower shall, before its acceptance by the licensee, have clearly set forth a statement of the effective rate of interest a year charged by the licensee for the loan evidenced by the note.

The provisions of chapter 476 [and section 408-15(1) (9)] shall not apply to any loan made [directly] to a borrower, in compliance with this chapter."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1983.)

ACT 128

H.B. NO. 1285

A Bill for an Act Relating to the Placement of a Sculpture at the Kauai State Office Building.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to permit a sculpture to be permanently displayed at the Kauai State Office Building.

SECTION 2. Any law to the contrary notwithstanding, a sculpture is authorized to be commissioned from funds appropriated and set aside for works of art pursuant to section 103-8, Hawaii Revised Statutes, and is authorized to be placed for permanent display at the Kauai State Office Building.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 26, 1983.)

ACT 129

S.B. NO. 570

A Bill for an Act Relating to Chapter 711, Offenses Against Public Order.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 711, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§711- Cruelty to animals; fighting dogs. (1) A person commits the offense of cruelty to animals if the person:

- (a) Owns or trains any dog with the intent that such dog shall be engaged in an exhibition of fighting with another dog;
- (b) For amusement or gain, intentionally causes any dog to fight with another dog, or causes any dog to injure another dog; or

- (c) Knowingly or recklessly permits any act in violation of paragraph (a) or (b) to be done on the premises under the person's charge or control, or aids or abets any such act.
- (2) Nothing in this section shall prohibit any of the following:
 - (a) The use of dogs in the management of livestock by the owner of the livestock or the owner's employees or agents or other persons in lawful custody thereof;
 - (b) The use of dogs in hunting on private lands permitted by section 191-18; or
 - (c) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.
- (3) Violation of this section shall be a class C felony.
- (4) If there is any conflict between this section and section 711-1109, or any other provision of law, this section shall apply."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1983.)

Note

- 1. Edited pursuant to HRS §23G-16.5.

ACT 130

H.B. NO. 211

A Bill for an Act Amending Section 142-12, Hawaii Revised Statutes, Relating to penalties.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 142-12, Hawaii Revised Statutes, is amended to read as follows:

"§142-12 Penalties. Any and all persons knowingly and wilfully violating any of the provisions of part I, chapter 142, or assisting in so doing, or who purchase, take, and carry away any animals, fodder, effects, or fittings connected [therewith] therewith before the same have been discharged by the department of agriculture, or knowingly and wilfully have in their possession any of the same, or impede or refuse to allow the department to perform its duty, for which actions a penalty is not otherwise provided, shall be fined not more than [\$500] \$1,000 or imprisoned not more than [six months,] one year, or both."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1983.)

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431-397, Hawaii Revised Statutes, is amended to read:

"§431-397 Reporting and accounting for premiums. (a) Every [licensee under this chapter] licensed general agent, subagent, solicitor and adjuster shall have the [responsibility] responsibilities of a trustee for all premium and return premium funds received or collected [as such licensee and shall not, without the written consent of his principal, mingle any such funds with his own funds or with funds held by him in any other capacity.] under this chapter. The licensee shall, upon receipt of the funds, either (1) remit the premiums (less commissions) and return premiums received or held by the licensee to the insurers or the persons entitled thereto, or (2) maintain the funds at all times in a federally-insured account with a bank or savings and loan association situated in Hawaii, separate from the licensee's own funds or funds held by the licensee in any other capacity, in an amount at least equal to the premiums (net of commissions) and return premiums received by such licensee and unpaid to the insurers or persons entitled thereto. The licensee shall not be required to maintain a separate bank account for the funds of each [principal,] insurer or person entitled to such funds, if and [as] so long as the funds [so] held for the [principal] insurer or person entitled thereto are reasonably ascertainable from the books of account and records of the licensee. Only such additional funds as may be reasonably necessary to pay bank or savings and loan association charges may be commingled with the premium funds. In the event the bank or savings and loan association account is an interest earning account, such licensee may not retain the interest earned on such funds to the licensee's own use or benefit without the prior written consent of the insurers or persons entitled to such funds. A premium trustee account shall be designated on the records of the bank or savings and loan association as a "trustee account established pursuant to section 431-397, Hawaii Revised Statutes" or words of similar import.

(b) Any such licensee who, not being lawfully entitled thereto, diverts or appropriates such funds or any portion thereof to his own use, shall be guilty of embezzlement, and shall be punished as provided in the criminal statutes of this State."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1983.)

A Bill for an Act Relating to Definitions of States of Mind.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 702-206, Hawaii Revised Statutes, is amended to read as follows:

“§702-206 Definitions of states of mind.

- (1) “Intentionally.”
 - (a) A person acts intentionally with respect to his conduct when it is his conscious object to engage in such conduct.
 - (b) A person acts intentionally with respect to attendant circumstances when he is aware of the existence of such circumstances or believes or hopes that they exist.
 - (c) A person acts intentionally with respect to a result of his conduct when it is¹ his conscious object to cause such a result.
- (2) “Knowingly.”
 - (a) A person acts knowingly with respect to his conduct when he is aware that his conduct is of that nature.
 - (b) A person acts knowingly with respect to attendant circumstances when he is aware that such circumstances exist.
 - (c) A person acts knowingly with respect to a result of his conduct when he is aware that it is practically certain that his conduct will cause such a result.
- (3) “Recklessly.”
 - (a) A person acts recklessly with respect to his conduct when he consciously disregards a substantial and unjustifiable risk [that he engages] by engaging in such conduct.
 - (b) A person acts recklessly with respect to attendant circumstances when he consciously disregards a substantial and unjustifiable risk that such circumstances exist.
 - (c) A person acts recklessly with respect to a result of his conduct when he consciously disregards a substantial and unjustifiable risk that his conduct will cause such a result.
 - (d) A risk is substantial and unjustifiable within the meaning of this section if, considering the nature and purpose of the person’s conduct and the circumstances known to him, the disregard of the risk involves a gross deviation from the standard of conduct that a law-abiding person would observe in the same situation.
- (4) “Negligently.”
 - (a) A person acts negligently with respect to his conduct when he should be aware of a substantial and unjustifiable risk [that he engages] taken by engaging in such conduct.
 - (b) A person acts negligently with respect to attendant circumstances when he should be aware of a substantial and unjustifiable risk that such circumstances exist.
 - (c) A person acts negligently with respect to a result of his conduct when he should be aware of a substantial and unjustifiable risk that his conduct will cause such a result.
 - (d) A risk is substantial and unjustifiable within the meaning of this subsection if the person’s failure to perceive it, considering the nature

ACT 133

and purpose of his conduct and the circumstances known to him, involves a gross deviation from the standard of care that a law-abiding person would observe in the same situation.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1983.)

Note

1. The word “is” added by revisor.

ACT 133

H.B. NO. 514

A Bill for an Act Relating to Counties.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that under the local government provisions of Article VIII of the State Constitution, “Each political subdivision shall have the power to frame and adopt a charter for its own self-government within such limits and under such procedures as may be provided by general law”, and that “Charter provisions with respect to a political subdivision’s executive, legislative and administrative structure and organization shall be superior to statutory provisions, subject to the authority of the legislature to enact general laws allocating and reallocating powers and functions.”

The legislature finds that county charter provisions relating to the size, membership, or composition of county zoning boards of appeals, as distinguished from the zoning power, relate to a political subdivision’s executive or administrative structure and organization and are therefore superior to statutory provisions.

In this regard, the legislature finds that although the charter of the city and county of Honolulu provides for a five-member zoning board of appeals, the charter of Hawaii county provides for a seven-member board of appeals. Thus, there is a need to repeal section 46-4.1, Hawaii Revised Statutes, and to thereby make it clear that the size, membership, or composition of county zoning boards of appeals is strictly a county matter.

SECTION 2. Section 46-4.1, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 134

H.B. NO. 1434

A Bill for an Act Relating to Offenses Against Property Rights.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 312-3.5, Hawaii Revised Statutes, is amended to read as follows:

“§312-3.5 [Wilful detention] Detention of books and other public library materials; penalty. A person who [wilfully and knowingly] detains a book, newspaper, plate, picture, photograph, engraving, painting, drawing, map, magazine, document, letter, public record, microform, sound recording, audio visual materials in any format, magnetic or other tapes, artifacts, or other documentary (written or printed) materials belonging to any public library or similar institution controlled by the State for [seven days after the mailing date of a written notice forwarded to his last known address, from the librarian or designated representative, that such books or library materials are to be returned to the library or institution,] one day after the due date of the public library materials, shall be subject to a nominal charge established by the board of education.

A person detaining such books or public library materials thirty days after the [mailing of the written notice] due date shall be subject to a charge commensurate with the replacement value of the books or public library materials.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1983.)

ACT 135

S.B. NO. 181

A Bill for an Act Relating to the Nursing Home Administrators Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 457B-3, Hawaii Revised Statutes, is amended to read as follows:

“[[§457B-3]] License required. [Effective July 1, 1970, no] No person [may] shall operate a nursing home in the [state] State without having a license [or a temporary license] and being registered with the board as hereinafter provided. It shall be unlawful for any person not licensed under this chapter to practice or offer to practice nursing home administration or to use any sign, card, or device to indicate that [he] the person is licensed and registered as an administrator.”

SECTION 2. Section 457B-5, Hawaii Revised Statutes, is amended to read as follows:

“[[§457B-5]] Meetings. The board shall meet annually and shall elect from its members a chairman and a vice-chairman. It may hold [such] other meetings during the year as may be deemed necessary to transact its business. The majority of the board shall constitute a quorum at any meeting.”

SECTION 3. Section 457B-6, Hawaii Revised Statutes, is amended to read as follows:

“**[§457B-6]] Powers and duties.** The board shall:

- (1) Develop, impose, and enforce standards which [must] shall be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators [will] shall be individuals who [are of good character and are otherwise suitable, and who,] by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;
- (2) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets [such] the board's standards;
- (3) Issue licenses to individuals determined, after the application of [such] appropriate techniques, to meet [such] the board's standards, and revoke or suspend licenses previously issued by the board in any case where the individual holding [any such] a license is determined substantially to have failed to conform to the requirements of [such] the board's standards;
- (4) Establish and carry out procedures designed to insure that individuals licensed as nursing home administrators [will,] shall, during any period that they serve as such, comply with the requirements of [such] the board's standards;
- (5) Receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of [such] the board's standards;
- (6) Conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the State with a view to the improvement of the standards imposed for the licensing of [such] administrators of nursing homes and of procedures and methods for the enforcement of [such] licensing standards with respect to administrators of nursing homes who have been licensed [as such];
- (7) Adopt in accordance with chapter 91 [such] rules [and regulations] as may be necessary for the purposes of this chapter; and
- (8) Maintain a record of all its proceedings.”

SECTION 4. Section 457B-10, Hawaii Revised Statutes, is amended to read as follows:

“**[§457B-10]] Injunctive relief.** The board may apply for an injunction in any court of competent jurisdiction to enjoin any person who has not been issued a license or registered or whose license has been suspended or revoked or has expired from practicing nursing home administration; and, upon the filing of a verified petition in the court, the court or any judge thereof, if satisfied by affidavit or otherwise, may issue a temporary injunction, without notice or bond, enjoining the defendant from further practicing nursing home administration. A copy of the verified complaint shall be served upon the defendant and the proceedings shall

thereafter be conducted as in other civil cases. If it is established that the defendant has been or is practicing nursing home administration without having been issued a license or registered or has been or is practicing nursing home administration after [his] the defendant's license has been suspended or revoked or has expired, the court or any judge thereof may enter a decree enjoining the defendant from further practicing nursing home administration. In case of violation of any injunction issued under this section, the court may summarily try and punish the offender for contempt of court. The injunction proceeding shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter."

SECTION 5. Section 457B-12, Hawaii Revised Statutes, is amended to read as follows:

"**[[§457B-12]] Penalties.** Any person who violates this chapter shall be fined not more than \$500 for a first offense. For each subsequent offense [he] the person shall be fined not more than \$1,000, or imprisoned not more than one year, or both.

SECTION 6. Section 457B-8, Hawaii Revised Statutes, is repealed.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 8. This Act shall take effect upon its approval.

(Approved May 28, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 136

S.B. NO. 191

A Bill for an Act Relating to Psychologists.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 465-1, Hawaii Revised Statutes, is amended to read as follows:

"§465-1 Definitions. As used in this chapter:

- (1) "Board" means the board of certification for practicing psychologists.
- (2) "Director" means the director of commerce and consumer affairs.
- (3) "Application fee", "renewal fee", "temporary permit fee", and "examination fee" mean the fees in the schedule set forth in section 465-12.
- (4) "Psychologist" means a person who engages in the practice of psychology as hereinafter defined.
- (5) A person practices "psychology" who performs any professional service which consists of, requires, and is limited to the application of psychological principles, techniques, and instruments for the purpose of assessment, diagnosis, and treatment of significant behavioral, emotional, and mental disorders as defined by the most current diagnostic manual of the American Psychiatric Association; and for the purpose of

the assessment, diagnosis, and rehabilitation of organic brain syndromes.”

SECTION 2. Section 465-4, Hawaii Revised Statutes, is amended to read as follows:

“§465-4 Board of certification for practicing psychologists; appointment, qualifications, term, expenses. There is created a board of certification for practicing psychologists, within the department of commerce and consumer affairs for administrative purposes, consisting of seven members. In accordance with section 26-34, the governor shall appoint, with the advice and consent of the senate, five members representing varied specialties of the profession from persons who would qualify for certification under this chapter and two lay members from the community at large. The terms of the board will be overlapping. Two psychologists and one lay member will be appointed for three years, two psychologists and one lay member will be appointed for two years, and one psychologist will be appointed for one year. The board shall elect one of its members to serve as chairman.

Members shall serve without compensation, except that they shall be reimbursed for actual expenses incurred in the performance of official duties on islands other than on the island of their residence.”

SECTION 3. Section 465-6, Hawaii Revised Statutes, is amended to read as follows:

“§465-6 Powers and duties. The board of certification for practicing psychologists shall:

- (1) Examine the qualifications of applicants for certification under this chapter to determine their eligibility for certification as psychologists and forward to the director the names of applicants who are eligible for [such] certification no later than ninety days after the date of application;
- (2) Prepare, administer, and grade [such] examinations and tests for applicants as may be required for the purposes of this chapter. The board shall determine the scope and length of [such] the examinations and tests, whether they shall be oral, written, or both and the score that shall be deemed a passing score. Examinations must be scheduled at least once annually;
- (3) Keep a record of action taken on all applicants for certification; the names of all persons certified; petitions for temporary certificates; actions involving suspension, revocation, or denial of certificates; recommendations for reciprocity and receipt and disbursal of any moneys[. The board shall report annually in writing to the governor concerning all the official acts of the previous year];
- (4) Promulgate, amend, and repeal pursuant to chapter 91, [such] rules [and regulations] as it deems proper for the purposes of this chapter.”

SECTION 4. Section 465-10, Hawaii Revised Statutes, is amended to read as follows:

"§465-10 Reciprocity. The board of certification for practicing psychologists may recommend certification without written or oral examination of an applicant who has not previously failed to pass an examination in psychology prescribed by the board and who submits evidence satisfactory to the board that:

- (1) [He] The applicant holds a doctoral degree from an accredited institution of higher education with training and education in the field of psychology adequate to the satisfaction of the board; and
- (2) [He] The applicant is certified or licensed, and in good standing, to practice psychology in another state deemed by the board to have standards equivalent to this chapter; or
- (3) [He] The applicant is a diplomate in good standing of the American Board of Examiners in Professional Psychology.

The director of commerce and consumer affairs shall issue a certificate under this section in the same manner and subject to the same conditions specified in section 465-8."

SECTION 5. Section 465-12, Hawaii Revised Statutes, is amended to read as follows:

"§465-12 Fees; disposition. The fees required by this chapter, none of which are refundable, shall be as follows:

(1)	Application fee	\$10
(2)	Examination fee	75
(3)	Certificate fee.....	15
(4)	Renewal fee	30
(5)	Temporary permit fee	15

All fees shall be paid to the director of commerce and consumer affairs and shall be deposited [by him] with the director of finance to the credit of the general fund."

SECTION 6. Section 465-13, Hawaii Revised Statutes, is amended to read as follows:

"§465-13 Denial, suspension, revocation of certificate. The board of certification for practicing psychologists shall refuse to grant a certificate to any applicant and may revoke or suspend any certificate upon any of the following grounds:

- (1) Professional misconduct or gross carelessness or manifest incapacity in the practice of psychology;
- (2) Habitual use of narcotic drugs or any other substance which impairs the intellect and judgment to such an extent as to incapacitate the applicant or certificate holder for the practice of psychology;
- (3) Habitual drunkenness;
- (4) Violation of this chapter;
- (5) Any unethical practice of psychology as defined by the board in accordance with its own rules [and regulations]."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 28, 1983.)

ACT 137

S.B. NO. 787

A Bill for an Act Relating to Horizontal Property Regimes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 514A, Hawaii Revised Statutes, is amended as follows:

1. By amending section 514A-14 to read as follows:

"**[§514A-14] Parking stalls.** Notwithstanding any provision of the declaration, apartment owners [with the consent of the lessor and mortgagee, if any,] shall have the right to change the designation of parking stalls which are appurtenant to their respective apartments by amendment of the declaration and respective apartment leases or deeds involved. The amendment need only be signed and approved by the lessor (in the case of a leasehold project) and the owners (and their respective mortgagees if any) of the apartments whose parking stalls are being changed. The amendment shall be effective only upon recording or filing of the same of record with the bureau of conveyances."

2. By amending section 514A-82 to read as follows:

"§514A-82 Contents of bylaws. The bylaws shall provide for at least the following:

- (1) The election of a board of directors, the number of persons constituting the same, and that the terms of at least one-third of the directors shall expire annually; the powers and duties of the board; the compensation, if any, of the directors; the method of removal from office of directors; and whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them.
- (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; and what percentage is, consistent with this chapter, necessary to adopt decisions binding on all apartment owners.
- (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners.
- (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.
- (5) Election of a treasurer who shall keep the financial records and books of account.
- (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges.

- (7) Manner of collecting [from the apartment owners their share of the common expenses[.], expenses, costs, and fees recoverable by the association under section 514A-94, and any penalties and late charges.
- (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements.
- (9) Method of adopting and¹ amending administrative rules and regulations governing the details of the operation and use of the common elements.
- (10) Such restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners.
- (11) The bylaws may be amended at any time by the vote or written consent of not less than sixty-five per cent of all apartment owners, but each one of the particulars set forth in this section shall always be embodied in the bylaws.
- (12) The first meeting of the association of apartment owners shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request.
- (13) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose. There shall not be more than one representative on the board of directors from any one apartment.
- (14) A director shall not vote or cast any proxy vote at any board meeting on any issue in which he has a conflict of interest.
- (15) No resident manager of the condominium shall serve on the board of directors.
- (16) The board of directors shall meet at least once a year.
- (17) Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to the meeting, and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting, and a standard proxy form authorized by the association, if any.
- [(18) A proxy form which accompanies a notice of meeting shall be valid for the meeting to which the notice pertains and its adjournment only and may designate any person as proxy and may be limited as the apartment owner desires and indicates.
- (19) The resident manager or managing agent or board of directors shall keep an accurate and current list of members of the association of

apartment owners and their current addresses and the names and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the board of directors.

- (20) (18) All association and board of directors meetings shall be conducted in accordance with the most current edition of² Roberts Rules of Order[, or other accepted rules for the conduct of meetings].
- [(21)] (19) The members of the association of apartment owners may require, by vote at the annual meeting, a yearly audit of the association books by a certified public accountant.
- [(22)] (20) All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors.
- [(23)] (21) Notice of the annual board meeting shall be given in a reasonable manner at least fourteen days, if practicable, prior to the meeting.
- (22) Penalties chargeable against persons for violation of the covenants, conditions, or restrictions set forth in the declaration, or of the bylaws and administrative rules and regulations adopted pursuant thereto, method of determination of violations, and manner of enforcing such penalties, if any.
- [(24)] That the minutes of meetings of the board of directors and association of apartment owners and the association's financial statements shall be available for examination by apartment owners at convenient hours at a place designated by the board and shall be mailed to any owner upon the owner's request.]”

3. By adding a new section to be appropriately designated and to read as follows:

“§514A- Board meetings. (a) All meetings of the board of directors shall be open to all members of the association, provided that association members who are not on the board of directors may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the board of directors.

(b) The board of directors, with the approval of a majority of a quorum of its members, may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters or litigation in which the association is or may become involved. The nature of any and all business to be considered in executive session shall first be announced in open session.”

4. By adding a new section to be appropriately designated and to read as follows:

“§514A- Proxies. Proxy forms shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate any person as proxy, and may be limited as the apartment owner desires and indicates.”

5. By adding a new section to be appropriately designated and to read as follows:

“§514A- Membership list. The resident manager or managing agent or board of directors shall keep an accurate and current list of members of the association of apartment owners and their current addresses and the names and

addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the board of directors and a copy shall be available, at cost, to any member of the association as provided in the declaration or bylaws or rules and regulations or, in any case, to any member who furnishes to the resident manager or managing agent or board of directors a duly executed and acknowledged affidavit stating that the list (A) will be used by such owner personally and only for the purpose of soliciting votes or proxies or providing information to other owners with respect to association matters and (B) shall not be used by such owner or furnished to anyone else for any other purpose."

6. By adding a new section to be appropriately designated and to read as follows:

"§514A- Meeting minutes. Minutes of meetings of the board of directors and association of apartment owners and the association's financial statements shall be available for examination by apartment owners at convenient hours at a place designated by the board, shall be mailed to any owner upon the owner's request, and shall include the recorded vote of each board member on all motions except motions voted on in executive session."

7. By amending section 514A-88 to read as follows:

"[§514A-88] Compliance with covenants, bylaws, and administrative provisions. Each apartment owner, tenants and employees of an owner, and other persons using the property shall comply strictly with the bylaws and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in the declaration. Failure to comply with any of the same shall be ground for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the manager or board of directors on behalf of the association of apartment owners or, in a proper case, by an aggrieved apartment owner."

8. By amending section 514A-89 to read as follows:

"§514A-89 Certain work prohibited. No apartment owner shall do any work which could jeopardize the soundness or safety of the property, reduce the value thereof, or impair any easement or hereditament, nor may any apartment owner add any material structure or excavate any additional basement or cellar, without in every such case the [unanimous] consent of [all] seventy-five per cent of the [other] apartment owners, together with the consent of all apartment owners whose apartments or limited common elements appurtenant thereto are directly affected, being first obtained; provided that the installation of solar energy devices as defined by section 468B-1, or additions to or alterations of an apartment made within such apartment or within a limited common element appurtenant to and for the exclusive use of the apartment shall require approval only by the board of directors of the association of apartment owners and such percentage, number, or group of apartment owners as may be required by the declaration or bylaws."

9. By amending section 514A-94 to read as follows:

"[§514A-94] [Attorney's] Attorneys' fees and expenses of enforcement. (a) All costs and expenses, including reasonable [attorney's] attorneys' fees, incurred by or on behalf of the association for:

(1) Collecting any delinquent assessments against any owner's apartment;
 (2) Foreclosing any lien thereon;
 (3) Enforcing any provision of the declaration, bylaws, house rules, and the Horizontal Property Act; or
 (4) The rules and regulations of the real estate commission;
 against an owner, [or any] occupant, [of an apartment] tenant, employee of an owner, or any other person who may in any manner use the property shall be promptly paid on demand to the association by [the apartment owner;] such person or persons; provided that if the claims upon which the association takes any action are not substantiated, all costs and expenses, including reasonable [attorney's] attorneys' fees, incurred by [the apartment owner] any such person or persons as a result of the action of the association, shall be promptly paid on demand to [the apartment owner] such person or persons by the association."

(b) If any claim by an owner is substantiated in any action against an association, any of its officers or directors, or its board of directors to enforce any provision of the declaration, bylaws, house rules, or this chapter, then all reasonable and necessary expenses, costs and attorneys' fees incurred by an owner shall be awarded to such owner; provided that no such award shall be made in any derivative action unless:

- (1) The owner first shall have demanded and allowed reasonable time for the board of directors to pursue such enforcement; or,
- (2) The owner demonstrates to the satisfaction of the court that a demand for enforcement made to the board of directors would have been fruitless."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1983, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made by any other Act enacted by the regular session of 1983.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.³

SECTION 5. This Act shall take effect upon its approval.

(Approved May 28, 1983.)

Notes

1. Prior to amendment "of" appeared here.
2. Underscore missing.
3. Edited pursuant to HRS §23G-16.5.

SECTION 1. Section 672-4, Hawaii Revised Statutes, is amended to read as follows:

“§672-4 Review by panel required; notice; presentation of claims[.]; termination. (a) Any person or his representative claiming that a tort has been committed by the design professional or entities employing such design professionals shall file a claim [to] with the department of commerce and consumer affairs before a suit based on the claim may be commenced in any court of [this] the State. All claims shall be submitted to the department of commerce and consumer affairs in writing on forms provided by [this] the department. If the claim is presented orally, the department of commerce and consumer affairs shall reduce the claim to writing. The claimant shall set forth facts upon which the claim is or may be based and shall include the names of all parties against whom the claim is or may be made who are known to the claimant. Within five business days thereafter, the panel shall give notice of the claim, by certified mail, to all architects, engineers or surveyors and others who are or may be parties to the claim and shall furnish copies of written claims to such persons. Such notice shall set forth a date, not more than twenty days after mailing the notice, within which any design professional against whom a claim is made may file a written response to the claim, and a date and time, not less than five days following the date for filing a response, for a hearing of the panel. Such notice shall describe the nature and purpose of the panel’s proceedings and shall designate the place of the hearing. The times originally set forth in the notice may be changed by the [chairperson,] chairman, on due notice to all parties, for good cause.

(b) At any time, by mutual consent of the parties involved, the department of commerce and consumer affairs, prior to the appointment of the chairman, or the chairman after his appointment, may terminate the proceedings and the claimant may proceed in accordance with section 672-8.”

SECTION 2. Chapter 672, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designed and to read as follows:

“§672- Retroactive application. This chapter shall apply to any claim arising prior to June 22, 1981 if a suit based on the claim has not been filed in a court of competent jurisdiction prior to the effective date of this Act.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

SECTION 1. Section 305E-1, Hawaii Revised Statutes, is amended to read as follows:

“[[§305E-1]] College-credit equivalency program established; purpose. There is established at the University of Hawaii and the community colleges a college-credit equivalency program. The purpose of this program is to award college credits to students who are enrolled in a degree or certificate program at the University of Hawaii or at a community college and who have successfully completed at a high school, business school, trade school, [or] adult education school, or military training program, courses which are equivalent to courses offered for credit in the University of Hawaii system. Credits may also be awarded for work or other experiences at the discretion of the University.”

SECTION 2. Section 304-4, Hawaii Revised Statutes, is amended to read as follows:

“§304-4 Powers of regents; official name. The board of regents shall have management and control of the general affairs, and exclusive jurisdiction over the internal organization and management, of the university. It may appoint a treasurer and such other officers as it deems necessary. It may authorize any officer, elected or appointed by it, to approve and sign on its behalf any voucher or other document which the board may approve and sign. It may purchase or otherwise acquire lands, buildings, appliances, and other property for the purposes of the university and expend such sums of money as may be from time to time placed at the disposal of the university from whatever source. All lands, buildings, appliances, and other property so purchased or acquired shall be and remain the property of the university to be used in perpetuity for the benefit of the university.

The board may charge a resident tuition fee for regular courses of instruction at any University of Hawaii campus, including any community college; provided that the tuition fee for nonresident students, both undergraduate and graduate, shall be not less than two times the tuition fee for resident students, but in no event less than two times the undergraduate tuition fee for resident students at the Manoa Campus. The board may also charge other fees for special programs of instruction, as well as laboratory fees or course fees or fees for student activities, each of which shall be the same for resident and nonresident students. The board may charge other fees for summer session or evening courses, including differential fees for nonresident students. The nonresident tuition differential shall not be applicable to nonresident students who were enrolled at the university during the fall or spring semester of the 1968-1969 school year, as long as the nonresident students continue to be enrolled at the university as regular students during the next and subsequent academic years, except where such continued enrollment is prevented for good cause as may be determined by the board of regents, [nor to nonresident students who are residents of a state or foreign country which permits Hawaii residents to pay resident tuition fees while attending public institutions of higher learning in such state or foreign country,] nor to nonresidents, United States military personnel stationed in Hawaii on active duty and their authorized dependents during the period such personnel are stationed in the State, nor to students from any district, commonwealth, territory, or insular jurisdiction, state, or nation which does not provide public institutions of higher learning, nor to employees of the university, their

spouses and dependents. The board may waive entirely or reduce the tuition fee or any of the other fees for any students, resident or nonresident, who are well qualified or in need of financial assistance, not to exceed five per cent of the total full-time enrollment of the previous fall semester for each campus in the system. The board may waive entirely or reduce the tuition fee or any of the other fees for graduate teaching and research assistants. The board may enter into agreements with government and university officials of any other state or foreign country to provide for reciprocal waiver of the nonresident tuition differential.

The board shall adopt the necessary rules and regulations defining residence for tuition purposes herein; provided that the basic rule shall be that a student shall qualify for the resident tuition fee only if the following criteria are met:

- (1) The adult student, or in the case of a minor student, his parents or guardians, has been a bona fide resident of this State for at least twelve consecutive months next preceding his registration at the university; and
- (2) The adult or minor student has not been claimed as a dependent for tax purposes for at least twelve months next preceding his registration at the university by his parents or guardians who reside outside of the State.

The official name of the board shall be Board of Regents, University of Hawaii, and the board shall adopt and use a common seal by which all official acts shall be authenticated."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 1983.)

ACT 140

S.B. NO. 1279

A Bill for an Act Relating to Environmental Quality.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 341-3, Hawaii Revised Statutes, is amended to read as follows:

"§341-3 Office of environmental quality control; ecology or environmental center; environmental council. (a) There is created an office of environmental quality control which shall be headed by a single executive to be known as the director of environmental quality control who shall be appointed by the governor as provided in section 26-34. This office shall implement this chapter and shall be placed within the department of health for administrative purposes. The office shall perform its duties under chapter 343 and shall serve the governor in an advisory capacity on all matters relating to environmental quality control.

(b) There is created within the university an ecology or environmental center.

(c) There is created an environmental council not to exceed fifteen members. Except for the director, members of the environmental council shall be appointed by the governor as provided in section 26-34. The council shall be placed within the department of health for administrative purposes. Except for the director, the term of each member shall be four years; provided that of the members initially appointed five members shall serve for four years, five members shall serve for three years, and the remaining four members shall serve for two years. Vacancies shall be filled for the remainder of any unexpired term in the same manner as original appointments. The director shall be [the council chairman.] an ex-officio voting member of the council. The council chairperson shall be elected by the council from among the appointed members of the council. [The membership of the council shall include: representatives from mass media, and representatives from relevant disciplines, for example, environmental design, natural, physical and social sciences, technologies, social ethics and philosophy, representatives of the university, representatives from business and industry, public and private schools and colleges, and voluntary community group and associations.]

Members shall be appointed to assure a broad and balanced representation of educational, business, and environmentally pertinent disciplines and professions, such as the natural and social sciences, the humanities, architecture, engineering, public health, and planning; educational and research institutions with environmental competence; agriculture, real estate, visitor industry, construction, media, and voluntary community and environmental groups. The members of the council shall serve without compensation but shall be reimbursed for expenses, including travel expenses, incurred in the discharge of their duties."

SECTION 2. Section 341-6, Hawaii Revised Statutes, is amended to read as follows:

"§341-6 Functions of the environmental council. The council shall serve as a liaison between the director and the general public by soliciting information, opinions, complaints, recommendations, and advice concerning ecology and environmental quality through public hearings or any other means and by publicizing such matters as requested by the director pursuant to section 341-4(b)(4). The council may make recommendations concerning ecology and environmental quality to the director and shall meet at the call of the council chairperson or the director upon notifying the council chairperson. The council shall monitor the progress of state, county, and federal agencies in achieving the State's environmental goals and policies and with the assistance of the director shall make an annual report with recommendations for improvement to the governor, the legislature, and the public no later than January 31 of each year. All state and county agencies shall cooperate with the council and assist in the preparation of such a report by responding to requests for information made by the council. The council may delegate to any person such power or authority vested in the council as it deems reasonable and proper for the effective administration of this section and chapter 343, except the power to make, amend, or repeal rules."

SECTION 3. Chapter 343, Hawaii Revised Statutes, is amended by amending the title to read as follows:

“[[CHAPTER 343]]
[ENVIRONMENTAL QUALITY COMMISSION
AND] ENVIRONMENTAL IMPACT STATEMENTS”

SECTION 4. Section 343-1, Hawaii Revised Statutes, is amended to read as follows:

“§343-1 Findings and purpose. The legislature finds that the quality of humanity’s environment is critical to humanity’s well being, that humanity’s activities have broad and profound effects upon the interrelations of all components of the environment, and that an environmental review process will integrate the review of environmental concerns with existing planning processes of the State and counties and alert decision makers to significant environmental effects which may result from the implementation of certain actions. The legislature further finds that the process of reviewing environmental effects is desirable because environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and society as a whole.

It is the purpose of this chapter to establish a system of environmental review [at the state and county levels] which will ensure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations.”

SECTION 5. Section 343-2, Hawaii Revised Statutes, is amended to read as follows:

“§343-2 Definitions. As used in this chapter unless the context otherwise requires:

- (1) “Acceptance” means a formal determination that the document required to be filed pursuant to section 343-5 fulfills the definition of an environmental impact statement, adequately describes identifiable environmental impacts, and satisfactorily responds to comments received during the review of the statement.
- (2) “Action” means any program or project to be initiated by any agency or applicant.
- (3) “Agency” mean any department, office, board, or commission of the state or county government which is a part of the executive branch of that government.
- (4) “Applicant” means any person [that,] who, pursuant to statute, ordinance, or rule, [or regulation,] officially requests approval for a proposed action.
- (5) “Approval” means a discretionary consent required from an agency prior to actual implementation of an action.
- (6) [“Commission”] “Council” means the environmental [quality commission.] council.
- (7) “Discretionary consent” means a consent, sanction, or recommendation from an agency for which judgment and free will may be exercised by the issuing agency, as distinguished from a ministerial consent.
- (8) “Environmental assessment” means a written evaluation to determine whether an action may have a significant [environmental] effect.

- (9) "Environmental impact statement" or "statement" means an informational document prepared in compliance with the rules [and regulations promulgated] adopted under section 343-6 and which discloses the environmental effects of a proposed action, effects of a proposed action on the economic and social welfare of the community and State, effects of the economic activities arising out of the proposed action, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects.
- (10) "Office" means the office of environmental quality control.
- [(10)] (11) "Person" includes any individual, partnership, firm, association, trust, estate, private corporation, or other legal entity other than [agencies.] an agency.
- [(11)] (12) "Significant effect" means the sum of effects on the quality of the environment, including actions that irrevocably commit a natural resource, curtail the range of beneficial uses of the environment, are contrary to the State's environmental policies or long-term environmental goals as established by law, or adversely affect the economic or social welfare."

SECTION 6. Section 343-3, Hawaii Revised Statutes, is amended to read as follows:

"§343-3 Public records and notice. All statements and other documents prepared under [the provisions of] this chapter shall be made available for inspection by the public during established office hours.

The [commission] office shall inform the public of notices filed by agencies of determinations that statements are required or not required, of the availability of statements for review and comments, and of the acceptance or non-acceptance of statements. The [commission] office shall inform the public by the publication of a periodic bulletin to be available to persons requesting this information. The bulletin shall be available through [its] the office and [through] public libraries."

SECTION 7. Section 343-4, Hawaii Revised Statutes, is repealed.

SECTION 8. Section 343-5, Hawaii Revised Statutes, is amended to read as follows:

"§343-5 Applicability and requirements. (a) Except as otherwise provided, an environmental assessment shall be required for actions which:

- (1) Propose the use of state or county lands or the use of state or county funds, other than funds to be used for feasibility or planning studies for possible future programs [[or]] projects which the agency has not approved, adopted, or funded, or funds to be used for the acquisition of unimproved real property; provided that the agency shall consider environmental factors and available alternatives in its feasibility or planning studies.
- (2) Propose any use within any land classified as conservation district by the state land use commission under chapter 205.
- (3) Propose any use within the shoreline area as defined in section 205-31.

- (4) Propose any use within any historic site as designated in the National Register or Hawaii Register as provided for in the Historic Preservation Act of 1966, Public Law 89-665, or chapter 6E.
- (5) Propose any use within the Waikiki-Diamond Head area of Oahu, the boundaries of which are delineated on the development plan for the Kalia, Waikiki, and Diamond Head areas (map designated as portion of 1967 city and county of Honolulu General Plan Development Plan Waikiki-Diamond Head Section A).
- (6) Propose any amendments to existing county general plans where such amendment would result in designations other than agriculture, conservation, or preservation, except actions proposing any new county general plan or amendments to any existing county general plan initiated by a county.

(b) Whenever an agency proposes an action which falls within the categories in subsection (a), other than feasibility or planning studies for possible future programs or projects which the agency has not approved, adopted, or funded, or other than the use of state or county funds for the acquisition of unimproved real property, which is not [included in any of the] a specific [types] type of [actions referred to in] action declared exempt under section 343-6, that agency shall prepare an environmental assessment for such action at the earliest practicable time to determine whether an environmental impact statement shall be required. A statement shall be required if the agency finds that the proposed action may have a significant effect on the environment. The agency shall file notice of such determination with the [commission] office which [shall], in turn, shall publish the agency determination for the public's information pursuant to section 343-3. The statement[, if required,] shall be prepared by the agency, submitted to the office, and made available for public review and comment through the [commission.] office. The [commission] office shall inform the public of the availability of the statement for public review and comments pursuant to section 343-3. The agency shall respond in writing to comments received during the review. Following this review by the public and any subsequent revision by the agency, the [commission,] council, when requested by the agency, may make a recommendation as to the acceptability of the statement. The final authority to accept such a statement shall rest with:

- (1) The governor, or his authorized representative, whenever an action proposes the use of state lands or the use of state funds or, whenever a state agency proposes an action within the categories in subsection (a); or
- (2) The mayor, or his authorized representative, of the respective county whenever an action proposes only the use of county lands or county funds.

Acceptance of a required statement shall be a condition precedent to implementation of the proposed action. Upon acceptance or nonacceptance of the statement, the governor or mayor, or his authorized representative, shall file notice of such determination with the [commission.] office. The [commission shall,]

office, in turn, shall publish the determination of acceptance or nonacceptance [of the statement] pursuant to section 343-3.

(c) Whenever an applicant proposes an action specified by subsection (a) which requires approval of an agency, and which is not [included in any of the] a specific [types] type of [actions referred to in] action declared exempt under section 343-6, the agency receiving the request for approval shall prepare an environmental assessment of such proposed action at the earliest practicable time to determine whether an environmental impact statement shall be required. A statement shall be required if the agency finds that the proposed action may have a significant effect on the environment. The agency shall file notice of such determination with the [commission] office which [shall], in turn, shall publish the agency determination for the public's information pursuant to section 343-3. The statement[, if required,] shall be prepared by the applicant, who shall file the statement with the [agency.] office. The statement shall be made available for public review and comments through the [commission.] office. The [commission] office shall inform the public of the availability of the statement for public review and comments pursuant to section 343-3. The applicant shall respond in writing to comments received during the review. Following the review by the public and any subsequent revision by the applicant, the [commission,] council, when requested by the applicant or agency, may make a recommendation as to the acceptability of the statement. The authority to accept such statement shall rest with the agency receiving the request for approval. Acceptance of a required statement shall be a condition precedent to approval of the request and commencement of proposed action. Upon acceptance or nonacceptance of the statement, the agency shall file notice of such determination with the [commission.] office. The [commission] office shall[, in turn,] publish the determination of acceptance or nonacceptance [of the statement] pursuant to section 343-3. The agency receiving the request [shall], within sixty days of receipt of the statement, shall notify the applicant and the [commission] office of the acceptance or nonacceptance of the statement. The statement shall be deemed to be accepted if the agency fails to accept or not accept the statement within sixty days after receipt of the statement; provided that the sixty-day period may be extended at the request of the applicant for a period not to exceed thirty days.

In any acceptance or nonacceptance, the agency shall provide the applicant with the specific findings and reasons for its determination. An applicant [may], within sixty days after nonacceptance of a statement by an agency, may appeal the nonacceptance to the environmental [quality commission,] council, which [shall], within thirty days of receipt of the appeal, shall notify the applicant of [its] the council's determination. In any affirmation or reversal of an appealed nonacceptance, the [commission] council shall provide the applicant and agency with specific findings and reasons for its determination. The agency shall abide by the [commission's] council's decision.

(d) Whenever an applicant simultaneously requests approval for a proposed action from two or more agencies and there is a question as to which agency has the responsibility of [complying with subsection (c) with respect to a particular action, the commission,] preparing the environmental assessment, the office, after

consultation with the agencies involved, shall determine which agency [is responsible.] shall prepare the assessment.

(e) [Whenever an agency proposes to implement an action or receives a request for approval, the] In preparing an environmental assessment, an agency may consider and, where applicable and appropriate, incorporate by reference, in whole or in part, previous determinations of whether a statement is required and previously accepted statements. The [commission] council [shall], by rules [and regulations], shall establish criteria and procedures for the use of previous determinations and statements.

(f) Whenever an action is subject to both the National Environmental Policy Act of 1969 (Public Law 91-190) and the requirements of this chapter, the office and agencies shall cooperate with federal agencies to the fullest extent possible to reduce duplication between federal and state requirements. Such cooperation [shall], to the fullest extent possible, shall include joint environmental impact statements with concurrent public review and processing at both levels of government. Where federal law has environmental impact statement requirements in addition to but not in conflict with this chapter, the office and agencies shall cooperate in fulfilling these requirements so that one document shall comply with all applicable laws.

(g) A statement that is accepted with respect to a particular action shall satisfy the requirements of this chapter and no other statement for that proposed action shall be required."

SECTION 9. Section 343-6, Hawaii Revised Statutes, is amended to read as follows:

"§343-6 Rules [and regulations]. After consultation with the affected agencies, the [commission] council shall make, amend, and repeal rules [and regulations] to implement [the provisions of] this chapter. The adoption, amendment, and repeal of all rules [and regulations] shall be subject to chapter 91. At least one public hearing shall be held in each county prior to the final adoption, amendment, or repeal of such rules [and regulations]. The rules [and regulations] shall:

- (1) Prescribe the contents of an environmental impact statement;
- (2) Prescribe the procedures whereby a group of proposed actions may be treated by a single statement;
- (3) Prescribe procedures for the submission, distribution, review, and acceptance or nonacceptance of a statement;
- (4) Prescribe procedures for the applicant to appeal the nonacceptance of a statement to the environmental [quality commission;] council;
- (5) Establish criteria to determine whether a statement is acceptable or not;
- (6) Establish procedures whereby specific types of actions, because they will probably have minimal or no significant effects on the environment, are declared exempt from the preparation of an assessment;
- (7) Prescribe procedures for informing the public of determinations that a statement is either required or not required [under section 343-5(b) and (c), and], for informing the public of the availability of statements for

review and comments, and for informing the public of the acceptance or nonacceptance of the statement.”

SECTION 10. Section 343-7, Hawaii Revised Statutes, is amended to read as follows:

“§343-7 **Limitation of actions.** (a) Any judicial proceeding, the subject of which is the lack of assessment required under section 343-5, shall be initiated within [120] one hundred twenty days of the agency’s decision to carry out or approve the action, or, if a proposed action is undertaken without a formal determination by the agency that a statement is or is not required, a judicial proceeding shall be instituted within [120] one hundred twenty days after the proposed action is started. The [commission,] council or office, any agency responsible for approval of the action, or the applicant shall be adjudged an aggrieved party for the purposes of bringing judicial action under this subsection. Others [may], by court action, may be adjudged aggrieved.

(b) Any judicial proceeding, the subject of which is the determination that a statement is or is not required for a proposed action, shall be initiated within sixty days after the public has been informed of such determination pursuant to section 343-3. The [commission] council or the applicant shall be adjudged an aggrieved party for the purposes of bringing judicial action under this subsection. Others [may], by court action, may be adjudged aggrieved.

(c) Any judicial proceeding, the subject of which is the acceptance of an environmental impact statement required under section 343-5, shall be initiated within sixty days after the public has been informed pursuant to section 343-3 of the acceptance of such statement. The [commission] council shall be adjudged an aggrieved party for the purpose of bringing judicial action under this subsection. Affected agencies and persons who provided written comment to such statement during the designated review period shall be adjudged aggrieved parties for the purpose of bringing judicial action under this subsection; provided that the contestable issues shall be limited to issues identified and discussed in the written comment.”

SECTION 11. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the environmental quality commission relating to the functions transferred to the office of environmental quality control and environmental council shall be transferred with the functions to which they relate.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act.

SECTION 12. The rules of the environmental quality commission in effect upon the effective date of this Act shall remain in effect until superseded by later

rules adopted by the environmental council under chapter 343, Hawaii Revised Statutes.

SECTION 13. The terms of the existing environmental council and environmental quality commission shall terminate on December 31, 1983 and a new environmental council shall be appointed with terms effective January 1, 1984. The initial members of the new environmental council shall be appointed by the governor as provided in section 26-34, Hawaii Revised Statutes, and shall consist of a minimum of ten members from the environmental council and environmental quality commission whose terms terminate on December 31, 1983.

SECTION 14. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 15. This Act shall take effect on January 1, 1984, but is not retroactive and shall not apply to those actions which have received approval prior to January 1, 1984 from appropriate agencies which had been authorized to approve actions prior to January 1, 1984.

(Approved May 28, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 141

H.B. NO. 43

A Bill for an Act Relating to Agricultural Product Promotion.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-16, Hawaii Revised Statutes, is amended to read as follows:

"§26-16 Department of agriculture. (a) The department of agriculture shall be headed by an executive board to be known as the board of agriculture.

The board shall consist of eight members, one who shall be a resident of the county of Hawaii, one who shall be a resident of the county of Maui, one who shall be a resident of the county of Kauai, four at large, and the chairperson of the board of land and natural resources who shall serve as an ex officio voting member. The appointment, tenure, and removal of the members and the filling of vacancies on the board shall be as provided in section 26-34. The governor shall appoint a chairman of the board from the members.

(b) The board may delegate to the chairman such duties, powers, and authority, or so much thereof, as may be lawful or proper for the performance of the functions vested in the board.

The chairman of the board shall serve in a full-time capacity. [He] The chairman shall, in that capacity, perform such duties, and exercise such powers and authority, or so much thereof, as may be delegated to [him] the chairman by the board.

(c) The department shall promote the conservation, development, and utilization of agricultural resources in the State; assist the farmers of the State and

any others engaged in agriculture by research projects, dissemination of information, crop and livestock reporting service, market news service, and any other means of improving the well-being of those engaged in agriculture and increasing the productivity of the lands, and administer the programs of the State relating to animal husbandry, entomology, farm credit, [development of agricultural products,] development and promotion of agricultural products and markets, and the establishment and enforcement of the rules on the grading and labeling of agricultural products.

(d) The chairman or [his] the chairman's designated representative shall hold at least one publicly announced hearing on each of the islands of Oahu, Hawaii, Maui, Kauai, and Molokai each year for the purpose of hearing complaints and suggestions, if any, from the farmers, ranchers, consumers, and other interested groups and persons with respect to matters within the duties, powers, and authority of the department of agriculture.

(e) The functions and authority heretofore exercised by the board of commissioners of agriculture and forestry (except the management of state parks and the conservation, development, and utilization of forest resources, including regulatory powers over the forest reserve provided in section 183-41, and of fish and game resources transferred to the department of land and natural resources), by the farm loan board as heretofore constituted, and by the University of Hawaii with respect to the crop and livestock reporting service and market news service, are transferred to the department of agriculture established by this chapter."

SECTION 2. Section 141-2, Hawaii Revised Statutes, is amended to read as follows:

"§141-2 Rules [and regulations]. Subject to chapter 91 the department of agriculture shall make, amend, and repeal rules [and regulations] not inconsistent with law, for and concerning:

- (1) The introduction, transportation, and propagation of trees, shrubs, herbs, and other plants;
- (2) The quarantine, inspection, fumigation, disinfection, destruction, or exclusion, either upon introduction into the State, or at any time or place within the State, of any nursery-stock, tree, shrub, herb, vine, cut-flower, cutting, graft, scion, bud, seed, leaf, root, or rhizome; any nut, fruit, or vegetable; any grain, cereal, or legume in the natural or raw state; any moss, hay, straw, dry-grass, or other forage; any unmanufactured log, limb, or timber; or any other plant growth or plant product unprocessed or in the raw state; any sand, soil, or earth; any live bird, reptile, insect, or other animal, in any state of development, that is in addition to the so-called domestic animals, which are provided for in section 142-2; and any box, barrel, crate, or other containers in which the articles, substances, or objects have been transported or contained, and any packing material used in connection therewith, which is or may be diseased or infested with insects or likely to assist in the transmission or dissemination of any insect or plant disease injurious, harmful, or detrimental, or likely to become injurious, harmful, or detrimental to the agricultural or horticultural industries or the forests

of the State, or which is or may be in itself injurious, harmful, or detrimental to the same (included therein may be rules [and regulations] governing the shipping of any of the articles, substances, or objects enumerated above in this section between different localities on any one of the islands within the State);

- (3) The prohibition of importation into the State, from any or all foreign countries, or from other parts of the United States, or the shipment from one island within the State to another island therein, or the transportation from one part or locality of any island to another part or locality of the same island, of any specific article, substance, or object or class of articles, substances, or objects, among those enumerated above in this section, which is diseased or infested with insects or likely to assist in the transmission or dissemination of any insect or plant disease injurious, harmful, or detrimental or likely to be injurious, harmful, or detrimental to the agricultural or horticultural industries, or the forests of the State, or which is or may be in itself injurious, harmful, or detrimental to the same.
- (4) The manner in which agricultural product promotion and research activities may be undertaken, after coordinating with the governor's agriculture coordinating committee.

All rules [and regulations] made as aforesaid, shall have the force and effect of law."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 1983.)

ACT 142

H.B. NO. 166

A Bill for an Act Relating to Medical Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431-471, Hawaii Revised Statutes, is amended to read as follows:

"§431-471 **Proofs of loss.** There shall be a required provision relative to proofs of loss. It shall be as follows:

"Proofs of Loss: In case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss, written proof of loss must be furnished to the insurer at its [said] office within ninety days after the termination of the period for which the insurer is liable, and in case of claim for any other loss within ninety days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than [one year] fifteen months from the time proof is otherwise required."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval, and shall apply to all insurance policies subject to section 431-471, Hawaii Revised Statutes, issued after the effective date of this Act.

(Approved May 28, 1983.)

ACT 143

H.B. NO. 236

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended to read:

"§213. Funds and accounts. (a) There are established in the treasury of the State seven revolving funds, to be known respectively as the Hawaiian home loan fund, the additional receipts loan fund, the Hawaiian home general loan fund, the Hawaiian home replacement loan fund, the Hawaiian home repair loan fund, the Hawaiian home farm loan fund, and the Hawaiian home operating fund.

(1) Hawaiian home loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses shall be deposited into this fund. The aggregate amount of this fund including:

- (A) The outstanding principal of all loans, advances, and transfers which have been made to other funds for which this fund has not been or need not be reimbursed; and
- (B) The installments of principal paid by the lessees upon loans made to them from this fund, or payments representing reimbursements, on account of advances, but not including interest on such loans or advances,

shall not exceed \$5,000,000. The moneys in this fund shall be available for the purposes enumerated in section 214 of this Act.

That portion of the thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provision of law or from water licenses, in excess of the present ceiling in the Hawaiian home loan fund of \$5,000,000, which amount is called "additional receipts," shall be transferred to the Hawaiian home development fund, to the additional receipts loan fund, and the Hawaiian home education fund as follows: fifteen per cent to the additional receipts loan fund; thirteen per cent to the Hawaiian home development fund; and seventy-two per cent to the Hawaiian home education fund; provided that until June 30, 1979, the aggregate amount so transferred shall not exceed the maximum amount of \$5,000,000, which maximum amount shall be increased to \$5,000,000 from and after July 1, 1979.

Any interest or other earnings arising out of investments from this fund shall be credited to and deposited into the Hawaiian home operating fund.

- (2) Additional receipts loan fund. Moneys transferred to this fund, installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursement on account of advances, but not including interest on such loans or advances, shall be used for the purposes enumerated in section 214 of this Act.
- (3) Hawaiian home general loan fund. Moneys appropriated by the legislature for the construction of homes but not otherwise set aside for a particular fund, excluding moneys appropriated for construction of replacement homes; moneys transferred from the Hawaiian [loan] home interest fund; and installments of principal paid by the lessees upon loans made to them from this fund, or as payments representing reimbursements on account of advances, but not including interest on such loans or advances[;], shall be deposited to this fund. The moneys in the fund shall be used for purposes enumerated in section 214 of this Act.
- (4) Hawaiian home replacement loan fund. The moneys in this fund shall be used to make loans to lessees to construct replacement homes upon their lots. Moneys appropriated by the legislature for replacement home construction loans; moneys transferred from the Hawaiian [loan] home interest fund; installments of principal paid by the lessees upon loans made to them from this fund; and moneys transferred from other funds or accounts by legislative authorization shall be deposited into this fund.
- (5) Hawaiian home repair loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian [loan] home interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$15,000 to lessees for repairs to their existing homes and for additions to such homes.
- (6) Hawaiian home farm loan fund. Moneys appropriated to this fund by the legislature; moneys transferred from the Hawaiian [loan] home interest fund; and installments of principal paid by the lessees upon loans made to them from this fund shall be deposited to this fund. The moneys in this fund shall be used to make loans in the amount provided in section 215 for the development and operation of a farm, ranch, or aquaculture operation or ninety per cent of the cost of the project, whichever is less, to lessees of agricultural tracts, pastoral tracts, and tracts used for aquaculture leased under section 207 of this Act. In addition to the purposes enumerated in section 214(a) such loans may be made for the following purposes:

- (A) The initial and on-going development, improvement, operation, and expansion of homestead farms, ranches, and aquaculture enterprises;
- (B) The liquidation of indebtedness incurred for any of the foregoing purposes relating to farm loans aged less than five years;
- (C) The payment of normal and reasonable living expenses of a full-time farmer;
- (D) The planning, layout, and installation of soil and water conservation practices; or
- (E) For emergency purposes to provide relief and rehabilitation to homestead farmers and ranchers due to damage by rain and wind storms, droughts, tidal wave, earthquake, volcanic eruption, and other natural catastrophes, and for livestock disease, epidemics, crop blights, and serious effects of prolonged shipping and dock strikes.

In addition to the conditions enumerated in section 215 farm loans shall be subject to the following conditions: to be eligible for a farm loan the applicant shall derive, or present an acceptable plan to derive a major portion of his income from farming; farm loans made for the purpose of soil and water conservation shall not exceed \$20,000 and shall be for a term not to exceed ten years. Subsidies and grants or cost sharing funds entitled and received by the lessee for soil and water conservation purposes shall be assigned to the department for the repayment of the outstanding farm indebtedness; and the lessee is required to carry out recommended farm management practices approved by a qualified agricultural agency.

- (7) Hawaiian home operating fund. The interest transferred from the Hawaiian home loan fund, all fees received by the department from any other source, and moneys transferred from the Hawaiian [loan] home interest fund, except moneys received by the Hawaiian home administration account, shall be directly deposited into the Hawaiian home operating fund. The moneys in this fund shall be available:
 - (A) For construction and reconstruction of revenue-producing improvements intended to principally serve occupants of Hawaiian home lands, including acquisition or lease therefor of real property and interests therein, such as water rights or other interests;
 - (B) For payment into the treasury of the State of such amounts as are necessary to meet the interest and principal charges for state bonds issued for such revenue-producing improvements;
 - (C) For operation and maintenance of such improvements constructed from such funds or other funds;
 - (D) For the purchase of water or other utilities, goods, commodities, supplies, or equipment needed for services, or to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands; and

- (E) For appraisals, studies, consultants (architects, engineers), or any other staff services including those in section 202(b) required to implement, develop, and operate these projects.

The moneys in this fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, this fund, with the approval of the governor, may be supplemented by transfers, made on a loan basis from the Hawaiian home loan fund for a period not exceeding ten years; provided that the aggregated amount of such transfers outstanding at any one time shall not exceed \$500,000.

(b) There are established in the treasury of the State eight special funds, to be known respectively as the Hawaiian home development fund, the Hawaiian home administration account, the Hawaiian loan guarantee fund, the Hawaiian [loan] home interest fund, the borrowed money fund, the Hawaiian home trust fund, the Hawaiian home education fund, and the native Hawaiian rehabilitation fund.

- (1) Hawaiian home development fund. Moneys transferred to this fund shall be available with the prior written approval of the governor for offsite improvements and development necessary to serve present and future occupants of Hawaiian home lands; for improvements, additions, and repairs to all assets owned or leased by the department excluding structures or improvements that the department is obligated to acquire under section 209 of this Act; for engineering, architectural, and planning services to maintain and develop properties; for such consultant services as may be contracted for under this Act; for purchase or lease of necessary equipment; for acquisition or lease of real property and interest therein; and for improvements constructed for the benefit of beneficiaries of this Act and not otherwise permitted in the various loan funds, the administration account, or the operating fund.
- (2) Hawaiian home administration account. The entire receipts derived from any leasing of the available lands defined in section 204 of this Act shall be deposited into this account. Any interest or other earnings arising out of investments from this fund shall be credited to and deposited into this fund. The moneys in this account shall be expended by the department for salaries and all other administration expenses of the department in conformity with general law applicable to all departments of the State, and no sums shall be expended for structures and other permanent improvements. This account shall be subject to the following conditions and requirements:

- (A) The department shall, when required by the governor but not later than November 15 preceding each regular session of the legislature, submit to the state director of finance its budget estimates of expenditures for the next fiscal period in the manner required by general law.

- (B) The department's budget as approved by the governor shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.
- (C) Upon legislative approval of a budget, the amount appropriated shall be made available to the department. If no budget is approved by the legislature prior to its adjournment, sums accruing to this account shall not be expended for any other purpose but shall remain available for future use. Any amount in this account which is in excess of the amount approved by the legislature or made available for the fiscal period may be transferred to the Hawaiian home development fund.
- (3) The Hawaiian loan guarantee fund. There may be created a fund to support the guarantee of repayment of loans made by government agencies or private lending institutions to those holding leases or licenses issued under section 207 of this Act. The department's guarantee of repayment shall be adequate security for a loan under any state law prescribing the nature, amount, or form of security or requiring security upon which loans may be made.
- (4) Hawaiian [loan] home interest fund. All interest moneys from loans or investments received by the department from any fund except [the borrowed money fund, the Hawaiian home loan fund, and the native Hawaiian rehabilitation fund] as provided for in each respective fund, shall be deposited in this fund. At the end of each quarter, all moneys in this fund shall be transferred to the Hawaiian home development fund, the Hawaiian home operating fund, and any loan fund in accordance with rules adopted by the department.
- (5) Borrowed money fund. The department may borrow from government agencies or private lending institutions and deposit borrowed moneys into this fund to be used for the purpose enumerated in section 214 of this Act. Installments of principal and that part of the interest equal to the interest charged to the department by the lender paid by the lessees upon loans made to them from this fund shall be deposited into this fund[.]; any additional interest or other earnings arising out of investments from this fund shall be credited to and deposited into the Hawaiian home interest fund.
- (6) Hawaiian home trust fund. All moneys deposited into this fund shall be available for transfers into any other fund or account authorized by the Act or for any public purpose deemed by the commission to further the purposes of the Act.
- (7) Hawaiian home education fund. Moneys transferred to this fund may be drawn upon from time to time by the department of education, with prior written approval of the governor, for such educational projects as shall be developed and directed by the department of education and department of Hawaiian home lands; provided that such projects shall be directed primarily to the educational improvement of the children of

lessees, the funds to be used primarily at the preschool and elementary grade levels.

(8) Native Hawaiian rehabilitation fund.

- (A) Pursuant to Article XII, Section 1, of the State Constitution, thirty per cent of the state receipts, derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, shall be deposited into this fund. The department shall use this money solely for the rehabilitation of native Hawaiians which shall include, but not be limited to, the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.
- (B) Any payment of principal, interest, or other earnings arising out of the loan or investment money from the fund shall be credited to and deposited into this fund.
- (C) Sections 214, 215, 216, and 217 of this Act shall not apply to administration of this fund. The department is authorized to adopt rules necessary to administer and carry out the purposes of this fund."

SECTION 2. Section 225, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (a) to read as follows:

"(a) The department shall have the power and authority to invest and reinvest any of the moneys in any of its funds, not otherwise immediately needed for the purposes of the funds, in such bonds and securities as authorized by state law for the investment of state sinking fund moneys. [Any interest or other earnings arising out of such investment shall be credited to and deposited in the Hawaiian home interest fund, except earnings derived from investments in the Hawaiian home administration account and the native Hawaiian rehabilitation fund account which shall revert to the same accounts.]"

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 1983.)

ACT 144

H.B. NO. 440

A Bill for an Act Relating to Motor Vehicle Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 294-9, Hawaii Revised Statutes, is amended to read as follows:

"§294-9 Obligations upon termination of insurance. (a) An owner of a motor vehicle registered in this State who fails to maintain insurance as required by section 294-8, shall immediately surrender the registration certificate and license

plates for the vehicle to the county director of finance and [may] shall not operate or permit operation of the vehicle in this State until insurance has again been obtained.

(b) Except as provided in subsection (d), an application for a no-fault policy, including required optional additional insurance meeting provisions of section 294-11, covering a motor vehicle [may] shall not be rejected by an insurer authorized to issue [such] a no-fault policy unless:

(1) The principal operator of [such] the vehicle does not have a license which permits [him] the operator to operate [such] the vehicle, or

(2) The application is not accompanied by a reasonable portion of the premium, as determined under [regulations] rules of the commissioner.

(c) A no-fault policy, including required optional additional insurance meeting provisions of section 294-11, once issued [may] shall not be canceled or refused renewal by an insurer except for:

(1) Suspension or revocation of the license of the principal operator to operate the type of motor vehicle insured, or

(2) Failure to pay the premium for [such] the policy after reasonable demand therefor.

An insurer may refuse to renew optional additional coverage in excess of that which the insurer is required to make available to the insured under section 294-11 where the insured is a member of a class set forth in section 294-22(b)(1)(A) or (B) at the time of the refusal to renew. In any case of cancellation or refusal to renew, the insurer shall continue all no-fault and optional additional coverages in force, to the date of expiration, or for thirty days following notice, whichever date first occurs. Within fifteen days of a cancellation, the insurer shall refund the pro rata unearned portion, if any, of any prepaid premiums. In any case of cancellation or refusal to renew, written notice shall be given to the insured, not less than thirty days prior to the effective date of [such] the cancellation or refusal to renew. [Such] The cancellation or refusal to renew shall not be deemed valid unless supported by a certificate of mailing properly validated by the United States Postal Service.

If the insurer has manifested in writing an offer to renew to the named insured at least thirty days prior to the end of the policy period and the offer is not accepted before the expiration of the policy term, the policy shall lapse upon that expiration date and this subsection shall not apply. Notwithstanding other valid methods of acceptance, an offer shall be deemed accepted as of the date of mailing of the acceptance. The date of mailing may be evidenced by the postmark or a certificate of mailing properly validated by the United States Postal Service.

(d) An insurer may reject or refuse to accept additional applications for, or refuse to renew no-fault policies [(1) if]:

(1) If the commissioner determines that the financial soundness of [such] the insurer would be impaired by the writing of additional policies of [such] insurance[, or (2) such]; or

(2) The insurer ceases to write any new policies of insurance of any kind in this State.

(e) Whoever knowingly violates, or conspires to violate, the provisions of subsection (b) or (c) shall be assessed a civil penalty in an amount not to exceed

\$1,000 for each separate violation. Each violation of subsection (b) with respect to policyholder or applicant for insurance shall constitute a separate violation.

(f) The principles of law and equity regarding fraud and misrepresentation of material fact shall apply with respect to optional additional coverages which are in excess of those which the insurer is required to make available to insureds under section 294-11."

SECTION 2. This Act does not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect on July 1, 1983.

(Approved May 28, 1983.)

ACT 145

H.B. NO. 519

A Bill for an Act Relating to Fishing in Certain Waters.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 188-35, Hawaii Revised Statutes, is amended to read as follows:

"§188-35 Fishing in certain waters. It is unlawful for any person to fish in or take aquatic life from the waters:

- (1) Of the Waikiki reclamation canal, Oahu;
- (2) Of the drainage canal constructed in connection with Kapiolani Boulevard, Oahu;
- (3) Of the Kapalama drainage canal, Oahu;
- (4) Off Heeia-Kea wharf, Oahu;
- (5) Within that portion of Waialua Bay delineated on the seaward boundary by lines drawn one hundred yards seaward of and parallel to the Haleiwa Harbor Breakwater and one hundred yards seaward of and parallel to the Haleiwa Beach Groin including the extension to the intercept of these lines and the inland boundary consisting of a line drawn ten yards downstream of and parallel to the Anahulu Bridge, Oahu;
- (6) Within that portion of Pokai Bay including the Pokai Boat Harbor and the Waianae Small Boat Harbor delineated on the seaward boundary by a straight line drawn from Kaneilio Point to Lahilahi Point with the northwestern boundary to be delineated by a straight line extending from the southernmost tip of the point immediately seaward of Waianae High School on a southwest azimuth to the intercept of the seaward boundary extending from Kaneilio Point to Lahilahi Point, Oahu; [and]
- (7) Of the Kapaa and Waikaena canals, Kauai; [with any device whatsoever, except as hereinafter provided.] and

(8) Within that portion of Kailua Bay, Hawaii, to be delineated by the department of land and natural resources pursuant to chapter 91; with any device whatsoever, except as provided in this section.

With reference to any of the places or areas named above, any person may at any time fish or take any fish with one line, or one rod and line, provided the line shall not have more than two hooks; or may take crabs with not more than ten nets, provided the nets shall not exceed two feet in diameter; or may take shrimps for bait purposes only with a hand net, provided the net shall not exceed three feet in any dimension; provided that in the Waikiki reclamation canal any person may take up to fifty tabai or mosquito fish, or o'opu akupa, or tilapia or any combination thereof, per day, for non-commercial purposes only, with a single small mesh net, provided that the net including any handle and other attachment thereto shall not exceed three feet in any dimension.

With a license obtained from the department of land and natural resources and under rules the department may adopt, the owner or operator of a fish pond may take pua or other small fish, using nets, for the purpose of stocking the fish pond.

With a license from the department, commercial marine licensees may take nehu or iao, using nets for bait purposes only.

The department may issue licenses at its discretion and at any time may revoke any or all licenses when, in its judgment, the action is necessary to preserve the stock of fish in the canals or waters."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 28, 1983.)

ACT 146

H.B. NO. 684

A Bill for an Act Relating to the Landlord Tenant Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 521-69, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) If the tenant is in material noncompliance with section 521-51, the landlord, upon learning of any such noncompliance and after notifying the tenant in writing of the noncompliance and allowing a specified time not less than [fifteen] ten days after receipt of the notice, for the tenant to remedy the noncompliance:

- (1) May terminate the rental agreement and bring a summary proceeding for possession of the dwelling unit or any other proper proceeding, action, or suit for possession if the tenant is in material noncompliance with section 521-51(1); or
- (2) May remedy the tenant's failure to comply and bill the tenant for the actual and reasonable cost of such remedy if the noncompliance can be remedied by the landlord by cleaning, repairing, replacing a damaged item, or the like, which bill shall be treated by all parties as rent due

and payable on the next regular rent collection date or, if the tenancy has terminated, immediately upon receipt by the tenant.

No allowance of time to remedy noncompliance shall be required when noncompliance by the tenant causes or threatens to cause irreparable damage to any person or property. If the tenant cannot be served with notice as required, notice may be given the tenant by posting the same in a conspicuous place on the dwelling unit."

SECTION 2. Section 521-72, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) If the tenant breaches any rule authorized under section 521-52, the landlord may notify the tenant in writing of his breach. The notice shall specify the time, not less than [fifteen] ten days, within which the tenant is required to remedy the breach and shall be in substantially the following form:

"(Name and address of tenant) (date)

You are hereby notified that you have failed to perform according to the following rule:

(specify rule allegedly breached)

Be informed that if you (continue violating) (again violate) this rule after (a date not less than [fifteen] ten days after this notice), the landlord may terminate the rental agreement and sue for possession of your dwelling unit."

No allowance of time to remedy the breach of any rule authorized under section 521-52 shall be required when the breach by the tenant causes or threatens to cause damage to any person or constitutes a violation of section 521-51(1) or (6)."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 1983.)

ACT 147

H.B. NO. 753

A Bill for an Act Relating to the Hawaiian Homes Commission Act, 1920, as Amended.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Purpose.** The purpose of this bill is to amend subsection (a) of §202, Hawaiian Homes Commission Act, 1920, as amended, to correct the inconsistencies created by the reapportionment of state voting districts by the 1981 Reapportionment Commission.

SECTION 2. Section 202, Hawaiian Homes Commission Act, 1920, is amended by amending subsection (a) to read:

"(a) There shall be a department of Hawaiian home lands which shall be headed by an executive board to be known as the Hawaiian homes commission. The members of the commission shall be nominated and appointed in accordance with section 26-34, Hawaii Revised Statutes. The commission shall be composed of eight members, as follows: three shall be residents of the city and county of

Honolulu[, of whom one shall be a resident of the Third Senatorial District, a second shall be a resident of the Fourth Senatorial District, a second shall be a resident of the Fourth Senatorial District, and a third shall be a resident of either the Fifth, Sixth or Seventh Senatorial District]; one shall be a resident of the county of Hawaii; two shall be residents of the county of Maui one of whom shall be a resident from the island of Molokai; one shall be a resident of the county of Kauai; and the eighth member shall be the chairman of the Hawaiian Homes Commission. All members shall have been residents of the State at least three years prior to their appointment and at least four of the members shall be descendants of not less than one-fourth part of the blood of the races inhabiting the Hawaiian islands previous to 1778. The members of the commission shall serve without pay, but shall receive actual expenses incurred by them in the discharge of their duties as such members. The governor shall appoint the chairman of the commission from among the members thereof.

The commission may delegate to the chairman such duties, powers, and authority or so much thereof, as may be lawful or proper for the performance of the functions vested in the commission. The chairman of the commission shall serve in a full-time capacity. He shall, in such capacity, perform such duties, and exercise such powers and authority, or so much thereof, as may be delegated to him by the commission as herein provided above."

SECTION 3. Statutory material to be repealed is bracketed.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 1983.)

ACT 148

H.B. NO. 1087

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 328-25, Hawaii Revised Statutes, is amended to read as follows:

"§328-25 Director's right of inspection,¹ demand for records, and seizure; hearings. (a) The director of health or any of his agents may in the performance of their duties [enter]:

- (1) Enter at all reasonable hours into any creamery, factory, restaurant, store, salesroom, [storage-room,] storage room, drug store, or laboratory, or any place where they have probable cause to believe that food, drugs, devices, cosmetics, or consumer commodity as defined by this part are made, prepared, sold, or kept; exhibited or offered for sale, and open any cask, tub, bottle, case, or package containing or supposed to contain any such food, drug, device, cosmetic, or consumer commodity, and examine or cause to be examined the contents thereof[.]; and

- (2) Demand a person to provide records or copies of records relating to the manufacture, distribution, or sale of food, drugs, devices, cosmetics,

or consumer commodity which the director has probable cause to believe is adulterated or misbranded; provided that no confidential information concerning secret processes or methods of manufacture secured pursuant to this section by any person who is an official or employee of the department of health within the scope of and course of the person's employment shall be disclosed by the person except as it relates directly to the adulteration or misbranding of a commodity, and then, only in connection with the person's official duties and within the scope and course of the person's employment. Any officer, employee or agent of the department acquiring confidential information concerning secret processes or methods of manufacture who divulges information except as authorized in this section or as ordered by a court or at an administrative hearing regarding an alleged adulteration or misbranding or of any rule or regulation or standard adopted pursuant to this part shall be guilty of a misdemeanor.

(b) [In case] If any food, drug, device, cosmetic, or consumer commodity is found to be adulterated or misbranded within the meaning of this part and the owner or person in charge thereof refuses to comply with the instructions of the director or any of his agents for the proper disposal thereof, the food, drug, device, cosmetic, or consumer commodity shall be liable to seizure. The director or any of his agents shall affix to the article or articles a tag or other appropriate marking, giving notice that the article is, or is suspected of being adulterated or misbranded, and has been detained or embargoed, and warning all persons not to remove or dispose of the article by sale or otherwise until permission for removal or disposal is given by the director or any of his agents or by the court or judge having jurisdiction over such matters. Upon the request of the director or any of his agents, made to such court, the court shall order and direct that the food, drug, device, cosmetic, or consumer commodity be seized and delivered into the custody of the court, and the same shall be held in such custody until a hearing has been held to determine whether or not it is adulterated or misbranded."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 28, 1983.)

Note

1. Underscoring missing.

ACT 149

H.B. NO. 1151

A Bill for an Act Relating to the Authorization of Special Purpose Revenue Bonds.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds and refunding special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. The department of budget and finance is authorized to issue special purpose revenue bonds in the amounts set forth below to assist not-for-profit corporations that provide health care facilities to the general public and to be used for financing as follows:

1. Queen's Medical Center, Oahu \$20,000,000
For financing and refinancing of short term borrowing of its health care facility.
2. Kaiser Foundation Hospitals \$22,000,000
For construction of second phase of a new hospital at Moanalua.

SECTION 3. The department of budget and finance is further authorized to issue from time to time refunding special purpose revenue bonds in such principal amounts as the department shall determine to be necessary to refund the special purpose revenue bonds authorized in Section 2 of this Act and in Act 16, First Special Session Laws of Hawaii 1981 and Act 164, Session Laws of Hawaii 1982. In making such determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this Section.

SECTION 4. The special purpose revenue bonds and refunding special purpose revenue bonds issued under this Act shall be issued pursuant to part II of chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit corporations to provide health care to the general public.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 28, 1983.)

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 328, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

§328- Protection of food. All food shall be prepared, stored, displayed, dispensed, placed, sold, and served so as to be protected from dust, insects, rodents, unnecessary handling, droplet infection, overhead leakage, or other contamination.

§328- Display of unpackaged processed food. (a) Unpackaged processed food, except potentially hazardous food, may be displayed and sold in bulk in self-service containers if all of the following conditions are satisfied:

- (1) Each self-service container has a tight-fitting lid permanently attached in a manner that prevents the lid from touching the floor, which is kept in a closed position at all times except during customer service;

- (2) Each self-service container has a utensil with a handle for dispensing the food;
 - (3) Self-service containers, lids, and utensils are constructed of nontoxic materials and provide for easy cleaning and proper repair;
 - (4) Self-service containers, lids, and utensils are maintained in a sanitary condition and in a manner that prevents spoilage and insect infestation;
 - (5) A sign is posted prominently and conspicuously within the immediate display area directing customers to utilize the utensils provided when serving themselves; and
 - (6) A label is conspicuously displayed in plain view of the customer and securely attached to each self-service container or in a clear relationship thereto, which contains the following:
 - (A) Common name of product; and
 - (B) Declaration of each ingredient used in the manufacture by their common or usual name in descending order of predominate weight. This declaration shall be provided in writing to the food establishment by the manufacturer, packer, or distributor.
- (b) Unpackaged processed food may be displayed and sold in bulk in other than self-service containers if all of the following conditions are satisfied:
- (1) The food is served by an employee of the food establishment directly to a consumer; and
 - (2) The food is displayed in clean, sanitary, and covered or otherwise protected containers.
- (c) If the director makes a specific finding that a disease is actually transmitted by the method of dispensing unpackaged processed food, as prescribed by this section, the director may establish by rule greater restrictions on the sale of such food than are required by this section. Such rule shall bear directly on the specific relationship between the disease actually transmitted and the dispensing methods permitted by this section."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved May 28, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to State Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 39-6, Hawaii Revised Statutes, is repealed.

SECTION 2. Chapter 39, Hawaii Revised Statutes, is amended by adding a new section to be designated as section 39-6 and to read:

"§39-6 Sale of bonds. (a) The director of finance may make such arrangements as may be necessary or proper for the sale of each issue of bonds or part thereof as are issued under this part. The director of finance may offer the bonds at public sale or may negotiate the sale of the bonds to any person or group of persons, to the United States of America, or any board, agency, instrumentality, or corporation thereof, to the employees retirement system of the State, to any political subdivision of the State, or to any board, agency, instrumentality, corporation, or other governmental organization of the State or of any political subdivision of the State.

(b) The sale of the bonds by the director of finance by negotiation shall be for not less than the par value thereof upon such terms and conditions, and the bonds shall bear interest at such rate or rates, as the director of finance, with the approval of the governor, shall approve.

(c) The sale of the bonds by the director of finance at public sale shall be made only after public advertisement for tenders, at not less than the par value thereof, with the interest rate or rates to be borne by the bonds to be specified by the bidders, in which event the bonds shall be sold in accordance with this subsection. The bonds offered at public sale shall be sold on one or the other of the following bases as selected by the director of finance, with the approval of the governor, to the bidder offering to purchase the bonds at the lowest interest cost, such interest cost for the purpose of this paragraph being:

- (1) The figure obtained by adding together the amounts of interest payable on the bonds from their date to their respective maturity dates at the rate or rates specified by the bidder and deducting from the sum obtained the amount of any premium offered by the bidder, or
- (2) Where the interest on the bonds is payable annually, the annual interest rate (compounded annually), or, where the interest on the bonds is payable semiannually, the rate obtained by doubling the semiannual interest rate (compounded semiannually), necessary to discount the principal and interest payments on the bonds from the dates of payment thereof to the date of the bonds and to the price bid (the price bid for the purpose of this paragraph shall not include the amount of interest accrued on the bonds from their date to the date of delivery and payment);

provided that in any case the right shall be reserved to reject any or all bids and waive any irregularity or informality in any bid.

(d) Bonds offered at public sale, without further action, shall bear interest at the rate or rates specified by the successful bidder. The advertisement for tenders required by this section shall be published at least once and at least five days prior to the date of such sale in a newspaper published and of general circulation in the State and in a financial newspaper or newspapers published in any of the cities of New York, Chicago, or San Francisco, and shall set forth the basis to be used in determining the successful bidder."

SECTION 3. Section 39-54, Hawaii Revised Statutes, is repealed.

SECTION 4. Chapter 39, Hawaii Revised Statutes, is amended by adding a new section to be designated as section 39-54 and to read:

"§39-54 Authorization of undertaking, loan program; form and contents of revenue bonds. (a) The issuance of revenue bonds for the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any undertaking or the establishment and administration of any loan program authorized by law shall be authorized:

- (1) By a resolution or resolutions of the governing body of the department, which may be adopted at the same meeting at which the same are introduced by a majority of all the members of the governing body of the department then in office, and shall take effect immediately upon filing with the director of finance of the State, or
- (2) By a certificate or certificates of a department head, which shall take effect immediately upon filing with the director of finance.

The revenue bonds shall bear interest at such rate or rates, payable semiannually, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding thirty years from their respective dates, may be payable in such medium of payment and at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants, and conditions, and may be in such form, either coupon or registered, as the resolution or certificate, subsequent resolutions or certificates, may provide.

(b) The head of the department may offer the revenue bonds at public sale or may negotiate the sale of the revenue bonds to any person or group of persons, to the United States, or any agency, instrumentality, or corporation thereof, to the state employees retirement system, or to any political subdivision of the State.

The sale of the revenue bonds by the head of the department by negotiation shall be for not less than ninety-five per cent of the principal amount thereof upon such terms and conditions as the head of the department, with the approval of the governor, shall approve.

The sale of revenue bonds by the head of the department at public sale may be made only after notice of the sale is published once at least five days prior to the sale in a newspaper published and of general circulation in the State and in a financial newspaper published in any of the cities of New York, Chicago, or San Francisco for not less than ninety-five per cent of the principal amount thereof.

(c) Pending the preparation of the definitive revenue bonds, interim receipts or certificates in such form and with such provisions as the department may determine may be issued to the purchaser or purchasers of revenue bonds sold pursuant to this chapter. The revenue bonds and interim receipts or certificates shall be fully negotiable within the meaning of and for all the purposes of Chapter 490, Uniform Commercial Code."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved May 31, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to High Technology Development.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that new industry development is essential to the economic growth of Hawaii. Existing industries are unable to absorb Hawaii's growing work force, and more opportunities are needed for skilled, technical, and scientific personnel who must leave the State if they cannot find employment in their fields.

The legislature further finds that high technology is a viable and desirable industry for development in Hawaii. High technology is the fastest growing industry in the nation. Sales of high technology products in the United States are expected to reach between \$300 and \$400 billion by 1991. Rapid technological advancements have accelerated the growth and expansion of the industry, and expectations are that high technology can be a stable source of employment and income in the future. In addition, high technology is environmentally and aesthetically compatible with the interests of the State.

The legislature believes that Hawaii is an attractive and ideal setting for high technology research, development, and manufacturing. The natural beauty, temperate climate, and clean water and air make Hawaii one of the most desirable places to live and work. The University of Hawaii provides scientific and technological training, and represents an established scientific community conducive to the development of a high technology industry. Strategically located in the Pacific, Hawaii is the ideal setting for expanding companies and corporations of nations from both the East and the West. Hawaii could serve, as United States Senator Spark M. Matsunaga first proposed, as the site of a Pacific International Center for High Technology Research, where scientists, engineers, and technicians from the United States and other nations can have the opportunity to share their knowledge and expertise and jointly pursue high technology research and development.

The legislature finds that it is desirable and in the public interest to establish an instrumentality and agency of the State and to grant to such agency the power to develop industrial parks for the location of such high technology enterprises, to assist such high technology enterprises in the construction and equipping of facilities to be used for such enterprises and related facilities, and to issue special purpose revenue bonds to finance the cost of such development, construction, and equipping. Further, the legislature hereby finds that the establishment of the high technology development corporation and the vesting of the powers granted it pursuant to this Act are a proper public purpose.

The purpose of this Act is to demonstrate Hawaii's commitment to the development of high technology enterprise by (1) creating a high technology development corporation which shall have the authority to develop industrial parks for the location of high technology enterprises and to assist in the construction of facilities for such enterprises through the issuance of special purpose revenue bonds, and which shall have a governing board composed of public officials and members of the general public who have proven expertise in fields that can assist in the development of high technology enterprise in Hawaii; and (2) establishing a Pacific

International Center for High Technology Research, which shall assist the corporation in its efforts, provide support for the high technology industry in the State, and offer scientists, engineers, and technicians from the United States and other nations an opportunity to share their knowledge of and expertise in high technology.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER HIGH TECHNOLOGY DEVELOPMENT CORPORATION

§ -1 **Definitions.** As used in this chapter, unless the context clearly requires otherwise:

- (1) “Board” means the board of directors of the development corporation established in section -2, and any successor thereto.
- (2) “Bonds” means special purpose revenue bonds issued under this chapter and shall include notes, other instruments of indebtedness, and refunding bonds.
- (3) “Cost” means the total cost in carrying out all undertakings that the development corporation deems reasonable and necessary for the development of a project or industrial park, including but not limited to the cost of studies, surveys, plans, and specifications, architectural, design, engineering, or any other special related services; the cost of site preparation and development, demolition, construction, reconstruction, rehabilitation, and improvement; the cost of financing such project or industrial park, including interest on bonds issued to finance such project or industrial park from the date thereof to the estimated date of completion of such project or industrial park as determined by the board; the cost of an allocable portion of the administrative and operating expenses of the development corporation related to the development of such project or industrial park; and the cost of indemnity and surety bonds, premiums on policies of insurance, legal fees, and fees and expenses of trustees, depositories, and paying agents for the bonds, and for the issuance of letters of credit or other banking arrangements whether for the development corporation or a qualified person; all as the development corporation shall deem necessary.
- (4) “Development corporation” means the high technology development corporation established by section -2.
- (5) “High technology” means emerging industries which are technology-intensive, including but not limited to electronics and biotechnology.
- (6) “Industrial park” means a tract of real property determined by the board as being suitable for use as building sites for projects by a group of enterprises engaged in industrial, processing, or manufacturing enterprises for high technology, including research, training, technical analyses, software development, and pilot plant or prototype product development, and may include the installation of improvements to such tract incidental to the use of real property as an industrial park, such as

water, sewer, sewage and waste disposal, and drainage facilities, sufficient to adequately service projects in the industrial park, and provision of incidental transportation facilities, power distribution facilities, and communication facilities. Industrial parks shall not include any buildings or structures of any kind except for buildings or structures incidental to improvements to the industrial park.

- (7) "Project" means any combination of land and buildings and other improvements thereon for use in industrial, processing, or manufacturing enterprises for high technology which are located in an industrial park and acquired, constructed, reconstructed, rehabilitated, improved, altered, or repaired by or on behalf of the development corporation.
- (8) "Project agreement" means any lease, sublease, loan agreement, conditional sale agreement, or other similar financing contract or agreement, or any combination thereof entered into under this chapter by the development corporation, including the financing from the proceeds of bonds of a project or an industrial park.
- (9) "Public agency" means any office, department, board, commission, bureau, division, public corporation, agency, or instrumentality of the federal, state, or county government.
- (10) "Qualified person" means any individual, partnership, public agency, or any combination or association of the foregoing, possessing the competence, expertise, experience, and resources, including financial, personnel, and tangible resources, required for the purposes of a project and such other qualifications as may be deemed desirable by the development corporation in administering this chapter and which enters into a project agreement with the development corporation.
- (11) "Real property" means lands, structures, and interests therein, and natural resources including water, minerals, and all such things connected with land, including lands under water and riparian rights, space rights, air rights, and any and all other things and rights usually included within the term. Real property also means any and all interests in such property less than fee title, such as leasehold interests, easements, incorporeal hereditaments, and every estate, interest, or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages, or otherwise.

§ 2 High technology development corporation; established. (a) There is established the high technology development corporation, which shall be a public body corporate and politic and an instrumentality and agency of the State. The development corporation shall be placed within the department of planning and economic development for administrative purposes, pursuant to section 26-35.

(b) The governing body of the development corporation shall consist of a board of directors having nine voting members. Seven of the members shall be appointed by the governor for staggered terms pursuant to section 26-34. Six of the appointed members shall be from the general public and selected on the basis of their knowledge, interest, and proven expertise in, but not limited to, one or more of

the following fields: finance, commerce and trade, corporate management, marketing, economics, engineering, and telecommunications, and other high technology fields; provided that no public member of the board shall be an officer or employee of the State or its political subdivisions. The other appointed member shall be selected from the faculty of the college of engineering of the University of Hawaii. All appointed members of the board shall continue in office until their respective successors have been appointed. The director of planning and economic development and the director of finance, or their designated representatives, shall serve as ex-officio voting members of the board. The director of planning and economic development shall serve as the chairperson until such time as a chairperson is elected by the board from the membership. The board shall elect such other officers as it deems necessary.

(c) The members of the board appointed under subsection (b) shall serve without compensation, but may be reimbursed for expenses, including travel expenses, incurred in the performance of their duties.

(d) The board shall appoint a chief executive officer, who shall serve at the pleasure of the board and shall be exempt from chapters 76 and 77. The board shall set the salary and duties of the executive officer.

§ -3 Powers, generally. (a) The development corporation shall have all the powers necessary to carry out its purposes, including the following powers:

- (1) To sue and be sued;
- (2) To have a seal and alter the same at its pleasure;
- (3) To make and execute, enter into, amend, supplement, and carry out contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter including, subject to approval of the governor, a project agreement with a qualified person, and any other agreement whereby the obligations of a qualified person under a project agreement shall be unconditionally guaranteed or insured by, or the performance thereof assigned to, or guaranteed or insured by, a person or persons other than the qualified person; and to grant options or renew any project agreement entered into by it in connection with any project or industrial park, on terms and conditions as it deems advisable;
- (4) To make and alter bylaws for its organization and internal management;
- (5) To adopt rules under chapter 91 necessary to effectuate this chapter in connection with industrial parks, projects, and the operations, properties, and facilities of the development corporation;
- (6) Through its chief executive officer, to appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapters 76 and 77;
- (7) To prepare or cause to be prepared development plans for industrial parks;
- (8) To own, lease, hold, clear, improve, and rehabilitate real, personal, or mixed property and to assign, exchange, transfer, convey, lease, sublease, or encumber any project including by way of easements;

- (9) To construct, reconstruct, rehabilitate, improve, alter, or repair, or provide for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project and to designate a qualified person as its agent for such purpose, and to own, hold, assign, transfer, convey, exchange, lease, sublease, or encumber any project;
- (10) To arrange or initiate appropriate action for the planning, replanning, opening, grading, or closing of streets, roads, roadways, alleys, easements, or other places, the furnishing of improvements, the acquisition of property or property rights, or the furnishing of property or services in connection with an industrial park;
- (11) To prepare or cause to be prepared plans, specifications, designs, and estimates of cost for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project or industrial park, and from time to time to modify such plans, specifications, designs, or estimates;
- (12) To engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
- (13) To procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable;
- (14) To accept and expend gifts or grants in any form from any public agency or from any other source;
- (15) To issue bonds pursuant to this chapter in such principal amounts as may be authorized from time to time by law to finance the cost of a project or an industrial park as authorized by law and to provide for the security thereof as permitted by this chapter;
- (16) To lend or otherwise apply the proceeds of the bonds issued for a project or an industrial park either directly or through a trustee or a qualified person for use and application in the acquisition, construction, installation, or modification of a project or industrial park, or agree with the qualified person whereby any of these activities shall be undertaken or supervised by that qualified person or by a person designated by the qualified person;
- (17) With or without terminating a project agreement, to exercise any and all rights provided by law for entry and re-entry upon or to take possession of a project at any time or from time to time upon breach or default by a qualified person under a project agreement, including any action at law or in equity for the purpose of effecting its rights of entry or re-entry or obtaining possession of the project or for the payments of rentals, user taxes, or charges, or any other sum due and payable by the qualified person to the development corporation pursuant to the project agreement;
- (18) To enter into arrangements with qualified county development entities whereby the board would provide financial support to qualified projects proposed; and

- (19) To do all things necessary or proper to carry out the purposes of this chapter.

§ -4 **Compliance with state and local law.** The issuance of bonds with respect to any project or industrial park under this chapter shall not relieve any qualified person or other user of such project or industrial park from the laws, ordinances, and rules of the State or any political subdivision thereof, or any department or board thereof with respect to the construction, operation, and maintenance of any project or industrial park, or zoning laws or regulations, obtaining of building permits, compliance with building and health codes and other laws, ordinances, or rules and regulations of similar nature pertaining to the project or industrial park, and such laws shall be applicable to such qualified person or such other user to the same extent they would be if the costs of the project or industrial park were directly financed by the qualified person.

§ -5 **Development rules.** The control and administration of any industrial park, the cost of which is financed from the proceeds of bonds shall be in the development corporation. The board shall adopt rules under chapter 91 to be followed during the course of the development of any industrial park, which are to be known as development rules in connection with health, safety, building, planning, zoning, and land use. The rules, upon final adoption of a development plan for an industrial park, shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon within the industrial park. Rules adopted under this section shall follow existing law, rules, ordinances, and regulations as closely as is consistent with standards meeting minimum requirements of good design, pleasant amenities, health, safety, and coordinated development.

§ -6 **Use of public lands.** The governor may set aside available public lands to the development corporation for the purposes specified in this chapter; provided that such setting aside would not impair any covenant between the State or any department or board thereof and holders of revenue bonds issued by the State or such department or board thereof. The development corporation also may lease available state lands from the department of land and natural resources.

§ -7 **Conditions precedent to negotiating and entering into a project agreement.** (a) The development corporation prior to entering into negotiations with respect to a project agreement or at any time during such negotiations shall require that as a condition to such negotiations or the continuation thereof the State shall be reimbursed for any and all costs and expenses incurred by it even though a project agreement may not be entered into and may further require the deposit of moneys with the development corporation as security for such reimbursement. Any amount of such deposit in excess of the amount required to reimburse the State shall be returned by the development corporation to the party which has made such deposit.

(b) The development corporation shall not enter into any project agreement with respect to any project or industrial park unless the legislature shall have first authorized the issuance of bonds to finance such project or industrial park pursuant to section -9, and the development corporation has thereafter found and determined either that:

- (1) The qualified person is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project, or otherwise; or
- (2) The obligations of the qualified person under the project agreement will be unconditionally guaranteed by a person who is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project or otherwise.

§ -8 Project agreement. (a) No bonds shall be issued unless at the time of issuance the development corporation shall have entered into a project agreement with respect to the project or industrial park for the financing of which such bonds are to be issued. Any project agreement entered into by the development corporation with a qualified person shall contain provisions unconditionally obligating such qualified person to pay the development corporation during the period or term of the project agreement, exclusive of any renewal or extension thereof and whether or not the project or industrial park to which such project agreement relates is used or occupied by the qualified person, at such time or times and in such amount or amounts that will be at least sufficient:

- (1) To pay the principal of, and premium, if any, and interest on all bonds issued to finance the cost of the project, or an allocable portion of the bonds issued to finance the industrial park, as the case may be, as and when the bonds become due, including upon any required redemption thereof;
- (2) To establish or maintain such reserves, if any, as may be required by the instrument authorizing or securing the bonds, or an allocable portion of such reserves, if less than all of the proceeds of the bonds are utilized for such qualified person;
- (3) To pay the fees and expenses of the paying agents and trustees for the bonds, or an allocable portion of such fees and expenses, if less than all of the proceeds of the bonds are utilized for such qualified person; and
- (4) To pay the expenses incurred by the development corporation in administering the bonds or in carrying out the project agreement, or an allocable portion of such expenses, if less than all of the proceeds of such bonds are utilized for such qualified person.

(b) Any project agreement entered into by the development corporation may contain such provisions as the development corporation deems necessary or desirable to obtain or permit the participation of the state and federal government in the project or industrial park or in the financing of the cost thereof.

(c) A project agreement also shall provide that the development corporation shall have all rights and remedies generally available at law or in equity to re-enter and take possession of a project upon the breach or default by a qualified person of any term, condition, or provision of a project agreement.

Moneys received by the development corporation pursuant to subsection (a) (4) shall not be, nor be deemed to be, revenues or receipts derived under the project agreement which may be pledge as security for bonds and shall be paid to the development corporation free and clear of any lien.

A qualified person may comply with the unconditional obligation to make payments required by subsection (a), if such obligations are unconditionally guaranteed or insured by, or the performance thereof assigned to, or guaranteed or insured by, a person or persons other than the qualified person which is satisfactory to the development corporation.

§ -9 Bonds; bond anticipation notes. (a) The development corporation, with the approval of the governor, may issue bonds for each single project or industrial park or multi-project program which has been authorized by the legislature by an affirmative vote of two-thirds of the members to which each house is entitled; provided that the legislature shall find that the issuance of such bonds is in the public interest. Bonds shall be issued in such principal amounts as may be authorized from time to time by law and at such time or times as the development corporation deems necessary and advisable to finance the cost of a project or industrial park as authorized by law. The principal of, premium, if any, and interest on such bonds shall be payable:

- (1) Exclusively from the revenues and receipts derived or to be derived by the development corporation under project agreements or from such revenues and receipts together with any grant from the government in aid of the project or industrial park financed from the proceeds of such bonds;
- (2) Exclusively from the revenues and receipts derived or to be derived by the development corporation from a particular project agreement, whether or not the project or industrial park to which it relates is financed in whole or in part with the proceeds of the bonds; or
- (3) From revenues and receipts derived or to be derived by the development corporation generally.

Neither the board members nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

(b) Bonds issued pursuant to this chapter may be in one or more issues and in one or more series within an issue and shall be further authorized pursuant to resolution of the board. The bonds shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding forty years from their date or dates, shall have such rank or priority, and may be made redeemable before maturity at the option of the development corporation, at such price or prices and under such terms and conditions, all as may be determined by the development corporation.

The development corporation shall determine the form of the bonds, including interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and, subject to the approval of the state director of finance the place or places of payment of principal and interest, which may be at any bank or trust company approved by the state director of finance within or without the State.

The bonds may be issued in coupon or in registered form, or both, as the development corporation may determine, and provisions may be made for the registration of coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of bonds registered as to both

principal and interest. Subject to the approval of the state director of finance the development corporation may sell bonds in such manner, either at public or private sale, and for such price as it may determine.

(c) Prior to the preparation of definitive bonds, the development corporation may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(d) Should any bond issued under this chapter or any coupon appertaining thereto become mutilated, lost, stolen, or destroyed, the development corporation may cause a new bond or coupon of like date, number, and tenor to be executed and delivered in exchange and substitution for, and upon the cancellation of such mutilated bond or coupon, or in lieu of and in substitution for such lost, stolen, or destroyed bond or coupon. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen, or destroyed bond or coupon (1) has paid the reasonable expenses and charges in connection therewith, (2) in the case of a lost, stolen, or destroyed bond or coupon, has filed with the development corporation or its fiduciary evidence satisfactory to the development corporation or its fiduciary that such bond or coupon was lost, stolen, or destroyed and that the holder was the owner thereof, and (3) has furnished indemnity satisfactory to the development corporation.

(e) The development corporation in its discretion may provide that CUSIP identification numbers shall be printed on such bonds. If such numbers are imprinted on such bonds (1) no such number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted, and (2) no liability shall attach to the development corporation or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for such bonds by reason of such numbers or any use made thereof, including any use thereof made by the development corporation, any such officer, or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use. The development corporation in its discretion may require that all costs of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this subsection, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

(f) Whenever the development corporation has authorized the issuance of bonds under this chapter, bond anticipation notes of the development corporation may be issued in anticipation of the issuance of such bonds and of the receipt of the proceeds of sale thereof, for the purposes for which such bonds have been authorized. All bond anticipation notes shall be authorized by the development corporation, and the maximum principal amount of such notes shall not exceed the authorized principal amount of such bonds. The notes shall be payable solely from and secured solely by the proceeds of sale of the bonds in anticipation of which the notes are issued and the moneys, rates, charges, and other revenues from which would be payable and by which would be secured such bonds; provided that to the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of such bonds, the maximum amount of bonds that has been

authorized in anticipation of which the notes are issued shall be reduced by the amount of notes paid in such manner. The authorization, issuance, and the details of such notes shall be governed by this chapter with respect to bonds insofar as the same may be applicable; provided that each note, together with all renewals and extensions thereof, or refundings thereof by other notes issued under this subsection, shall mature within five years from the date of the original note.

(g) In order to secure the payment of any of the bonds issued pursuant to this chapter, and interest thereon, or in connection with such bonds, the development corporation shall have the power as to such bonds:

- (1) To pledge all or any part of the revenues and receipts derived or to be derived by the development corporation as provided in this chapter to the punctual payment of bonds and interest thereon, and to covenant against thereafter pledging such revenues and receipts to other bonds or other obligations of the development corporation for any other purpose, except as otherwise stated in the proceedings providing for the issuance of bonds permitting the issuance of additional bonds to be equally and ratably secured by a lien upon such moneys, rates, charges, and other revenues.
- (2) To pledge and assign the interest of the development corporation under any project agreement and other agreements related to a project or industrial park, and the rights, duties, and obligations of the development corporation thereunder, including the right to receive revenues and receipts thereunder.
- (3) To pledge or assign all or any part of the proceeds derived by the development corporation from proceeds of insurance or condemnation awards.
- (4) To covenant as to the use and disposition of the proceeds from the sale of such bonds.
- (5) To covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof.
- (6) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default", the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.
- (7) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation.
- (8) Subject to the approval of the state director of finance to designate a national or state bank or trust company within or without the State incorporated in the United States, to serve as trustee for the holders of the bonds and to enter into a trust indenture, trust agreement, or indenture of mortgage with such trustee. The trustee may be authorized by the development corporation to receive and receipt for, hold, and administer the proceeds of such bonds and to apply the proceeds to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the revenues and receipts derived or to be

derived by the development corporation under a project agreement or other agreement related to a project or industrial park, and to apply such revenues and receipts to the payment of the principal of and interest on such bonds, or both, and excess revenues and receipts to the payment of expenses incurred by the development corporation in administering such bonds or in carrying out such project agreement or other agreement. If the trustee shall be appointed, any trust indenture, trust agreement, or indenture of mortgage entered into by the development corporation with the trustee may contain whatever covenants and provisions as may be necessary, convenient, or desirable in order to secure such bonds. The development corporation may pledge and assign to the trustee a project agreement and other agreements related thereto and the rights of the development corporation thereunder, including the right to receive revenues and receipts thereunder. The development corporation may appoint the trustee to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption of the bonds, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the development corporation may deem necessary, advisable, or expedient, including without limitation the holding of the bonds and coupons which have been paid and the supervision of the destruction thereof in accordance with law.

- (9) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants and duties.
- (10) To invest or provide for the investment of the proceeds of bonds and revenues and receipts derived by the development corporation in such securities and in such manner as it deems proper.
- (11) To make such covenants and do any and all acts and things as may be necessary, convenient, or desirable in order to secure such bonds, notwithstanding that such covenants, acts, or things may not be enumerated in this chapter.

No holder or holders of bonds issued under this chapter shall ever have the right to compel any exercise of the taxing power of the State or any political subdivision of the State to pay such bonds or the interest thereon and no moneys other than the revenues pledged to such bonds shall be applied to the payment thereof.

(h) Bonds bearing the signature or facsimile signature of officers in office on the date of the signing thereof shall be valid and sufficient for all purposes, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the development corporation. The bonds shall contain a recital that they are issued pursuant to this chapter which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(i) Subject to authorization by an act enacted by the legislature by an affirmative vote of two-thirds of the members to which each house is entitled, the development corporation may issue bonds for the purpose of refunding bonds then outstanding and issued under this chapter whether or not such outstanding bonds have matured or are then subject to redemption. The development corporation may issue bonds for the combined purposes of (1) financing or refinancing the cost of a project or industrial park, or the improvement or expansion thereof, and (2) refunding bonds which shall theretofore have been issued under this chapter and then shall be outstanding, whether or not such outstanding bonds have matured or then are subject to redemption.

Nothing in this subsection shall require or be deemed to require the development corporation to elect to redeem or prepay bonds being refunded, or to redeem or prepay bonds being refunded which were issued, in the form customarily known as term bonds in accordance with any sinking fund installment schedule specified in any proceeding authorizing the issuance thereof, or,¹ the development corporation elects to redeem or prepay such bonds, to redeem or prepay as of any particular date or dates. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the development corporation with respect to the bonds, shall be governed by the foregoing provisions of this chapter insofar as the same may be applicable.

§ -10 Authorization for loans; loan terms and conditions; loan procedure. (a) Notwithstanding any law to the contrary, the state director of finance is authorized, with the approval of the governor, to make loans up to the aggregate sum of \$500,000, or so much thereof as may be necessary, to the development corporation. The loans shall be made from the state general fund moneys which are in excess of the amounts necessary for immediate state requirements, and shall be used for the purpose of paying administrative and other predevelopment costs associated with the development of industrial parks.

(b) The development corporation, to the extent moneys become available from bond proceeds or otherwise, shall repay the general fund the principal amount of any loan made by the state director of finance. No interest shall be required for any such loan.

(c) Loans authorized by this section shall be drawn upon by the development corporation from time to time upon at least five days notice to the state director of finance and upon the filing with the state director of finance of a certificate of the chairperson of the board setting forth the amount being borrowed, the names of the persons, firms, or corporations to which moneys will be paid from the proceeds of such borrowing and the amount to be paid to each. In addition, the chairperson of the board shall file with the state director of finance a copy of the resolution or resolutions of the board approving contracts for services which will be paid from the proceeds of the borrowing.

§ -11 Bonds not a general or moral obligation of State. No holder or holders of bonds issued under this chapter shall ever have the right to compel any exercise of the taxing power of the State to pay such bonds or the interest thereon and no moneys other than the revenues pledged to such bonds shall be applied to the

payment thereof. Each bond issued under this chapter shall recite in substance that such bond, including interest thereon, is not a general or moral obligation of the State and is payable solely from the revenues pledged to the payment thereof, and that such bond is not secured, directly or indirectly, by the full faith and credit or the general credit of the State or by revenues or taxes of the State other than the revenues specifically pledged thereto.

§ -12 **Bonds exempt from taxation.** Bonds and the income therefrom issued pursuant to this chapter shall be exempt from all state taxation, except inheritance, transfer, and estate taxes.

§ -13 **Bonds as legal investments and lawful security.** Bonds issued pursuant to this chapter shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for all public funds of the State or other political corporations or subdivisions of the State. Such bonds shall be eligible to secure the deposit of any and all public funds of the State or political corporations or subdivisions of the State, and such bonds shall be lawful and sufficient security for such deposits to the extent of their value when accompanied by unmatured coupons appertaining thereto.

§ -14 **Status of bonds under Uniform Commercial Code.** Notwithstanding any of the provisions of this chapter or any recital in any bond issued under this chapter, all such bonds shall be deemed to be investment securities under the Uniform Commercial Code, chapter 490, subject only to the provisions of the bonds pertaining to registration.

§ -15 **High technology research and development fund.** There is established the high technology research and development fund into which shall be deposited all moneys as may be appropriated by the legislature or as may be contributed to the development corporation to fund high technology research and development projects, and from which the development corporation may fund high technology research and development projects under agreements with any State or county agency or other organizations. In making any expenditure under this section, the development corporation shall analyze each funding request to determine whether the project to be undertaken will be economically viable and beneficial to the State.

§ -16 **Exemption of development corporation from taxation and competitive bidding.** (a) All revenues and receipts derived by the development corporation from any project or industrial park or under a project agreement or other agreement pertaining thereto shall be exempt from all state taxation. Any right, title, and interest of the development corporation in any project or industrial park shall also be exempt from all state taxation. Except as otherwise provided by law, the interest of a qualified person or other user of a project or industrial park under a project agreement or other agreements related to a project or industrial park shall not be exempt from taxation to a greater extent than it would be if the costs of the project or industrial park were directly financed by the qualified person or user.

(b) The development corporation shall not be subject to any requirement of law for competitive bidding for project agreements, construction contracts, or other

contracts unless a project agreement with respect to a project or industrial park otherwise shall require.

§ -17 **Development fund.** The development corporation shall establish a separate development fund with respect to each issue of bonds issued under this chapter, shall provide an appropriate designation therefor, and shall direct all revenues and receipts pledged to the payment of such issue of bonds to be deposited into such fund and, as permitted by section -9(g) (8), designate a trustee to receive and receipt for, hold, and administer the moneys in such fund. The development corporation may establish such other funds and accounts as it may deem appropriate. Unless a trustee is designated as provided in this chapter, all funds and accounts of the development corporation shall be held and administered by the state director of finance as provided in section 37-54. The moneys on deposit in the funds shall be used for the purposes of this chapter.

§ -18 **Assistance by state and county agencies.** Every state or county agency may render services to the development corporation upon request of the development corporation.

§ -19 **Court proceedings; preferences.** Any action or proceeding to which the development corporation, the State, or a county may be party, in which any question arises as to the validity of this chapter, shall be preferred over all other civil causes, except election cases, without respect to position on the calendar. The same preference shall be given upon application of counsel for the development corporation in any action or proceeding questioning the validity of this chapter in which the development corporation has duly intervened.

§ -20 **Construction of this chapter.** The powers conferred by this chapter shall be in addition and supplemental to other powers conferred by any other law. This chapter shall constitute and be enabling legislation for the development corporation, as an agency and instrumentality of the State, to issue special purpose revenue bonds in accordance with the provisions of the Constitution of the State of Hawaii and this chapter. Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, this chapter shall be controlling."

SECTION 3. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§304- **Pacific international center for high technology research; established.** (a) There is established as an educational and research institution, the "Pacific International Center for High Technology Research", hereinafter referred to as the center. The center shall be placed within the University of Hawaii for administrative purposes as provided for in section 26-35, but the center may later incorporate as a nonprofit corporation if this proves desirable to further its objectives.

(b) The center shall assist the State's high technology development corporation in its efforts, shall promote educational, scientific, technological, and literary pursuits in the area of high technology, and shall provide support for the high technology industry in Hawaii in the following manner:

- (1) By fostering scientific and technological interchange between students and scholars of the United States and other nations;

- (2) By encouraging, initiating, aiding, developing, and conducting scientific investigations and research in high technology;
 - (3) By encouraging and aiding in the education and training of persons from the United States and other nations for the conduct of such investigations, research, and study;
 - (4) By assisting in the dissemination of knowledge by establishing, aiding, and maintaining professorships or other staff positions, fellowships, scholarships, publications, and lectures;
 - (5) By other means to make the benefits of investigations, research, and study available to the public; and
 - (6) By any and all other acts reasonably designed to further the above purposes in the interest of promoting the general welfare of the people of the State and the mutual understanding between the United States and other nations.
- (c) The center shall seek, receive, and accept from public and private sources, whether located within or without the United States, grants, gifts, devises, bequests, or otherwise money and property, real, personal, or mixed, tangible or intangible, absolutely or in trust, to be used in carrying out the purposes of the center."

SECTION 4. Annual report. The development corporation and the Pacific International Center for High Technology Research shall submit to the governor and the legislature, at least twenty days prior to the convening of each regular session, a complete and detailed report of their activities.

SECTION 5. Appropriations. (a) There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 1983-1984, to staff and operate the High Technology Development Corporation established by this Act. The sum appropriated shall be expended by the High Technology Development Corporation.

(b) There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1983-1984, to carry out the purposes of Section 3 of this Act. The sum appropriated shall be expended by the University of Hawaii, and may be used to hire necessary staff without regard to Chapters 76 and 77, Hawaii Revised Statutes.

(c) Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1984, shall lapse into the general fund.

SECTION 6. Severability. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. New statutory material is underscored.²

SECTION 8. This Act shall take effect on July 1, 1983.

(Approved May 31, 1983.)

Notes

1. The word "if" is missing.
2. Edited pursuant to HRS §23G-16.5.

ACT 153

S.B. NO. 555

A Bill for an Act Relating to Service Fees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 92-24, Hawaii Revised Statutes, is amended to read as follows:

"§92-24 Directors of finance and commerce and consumer affairs; fees.

The director of finance and the director of commerce and consumer affairs each shall charge the following fees:

- (1) For administering any oath, \$1;
- (2) For preparing every photostat copy of any document on record in his office, 50 cents per page or portion thereof;
- (3) For preparing every typewritten copy of any document on record in his office, 50 cents per page or portion thereof;
- (4) For preparing a certificate of compliance, [§1] \$5 for the original certificate, and [25 cents] \$1 for each additional copy thereof[;], of which \$4 from each certificate and 75 cents of each additional copy shall be deposited in the special fund authorized by section 416-97, and the balance deposited to the general fund of the state;
- (5) For comparing any document submitted for certification, 15 cents per page or portion thereof;
- (6) For certifying any document on record in his office, 25 cents for each certification;
- (7) For all other acts and duties, the fees of which are not otherwise provided for, such charges as each may from time to time prescribe."

SECTION 2. Section 416-131, Hawaii Revised Statutes, is amended to read as follows:

"§416-131 Manner of service. Service of any notice or process authorized by law issued against any corporation, whether domestic or foreign, by any court, judicial or administrative officer, or board, may be made in the manner provided by law upon any officer or director of the corporation who is found within the jurisdiction of the court, officer, or board; and in default of finding any officer or director, upon the manager or superintendent of the corporation or any person who is found in charge of the property, business, or office of the corporation within the jurisdiction.

If no officer, director, manager, superintendent, or other person in charge of the property, business, or office of the corporation can be found within the State; and in case the corporation, if a foreign corporation, has neglected to file with the officer specified in section 418-1 or 418-2 the name of a person upon whom legal notice and process from the courts of the State may be served; and likewise if the

person so named is not found within the State, service may be made upon the corporation by filing with the director of commerce and consumer affairs, or in his absence, with the deputy director, a copy of the notice, or process, certified to be such under the seal of any court of record, or by the chairman, or president of the board, or by the officer issuing the same[.], together with payment of a fee of \$15, which shall be deposited in the special fund authorized by section 416-97. The director or deputy director so served shall immediately notify the defendant corporation of the service. The filing shall be deemed service upon the corporation forty-five days after the filing, and shall authorize the court, board or officer to proceed in all respects as in the case of service personally made upon an individual."

SECTION 3. Section 482-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Before any person may receive a certificate of registration of a print, label, or trademark, he shall file in the office of the director of commerce and consumer affairs an application for the registration of such print, label, or trademark, with a declaration, certified by the applicant, stating that he is the sole and original proprietor or the assign of such proprietor of this print, label, or trademark, and describing the goods or manufactured articles for which the print, label, or trademark is used, and stating the manner in which the print, label, or trademark is used. Before any person may receive a certificate of registration of a service mark or trade name, he shall file in the office of the director an application for the registration thereof, with a declaration, certified, as aforesaid, stating that he is the sole and original proprietor of the service mark or trade name, or the assign of the proprietor and setting forth the nature of the business in which the service mark or trade name is used. The application shall be accompanied by two exact copies of the print, label, trademark, service mark, or trade name. Upon filing the application, the applicant shall pay to the director a fee of [~~\$10.~~] \$25, of which \$15 shall be deposited in the special fund authorized by section 416-97, and the balance deposited to the general fund of the State."

SECTION 4. Section 634-31, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§634-31]]~~ **Same; nonresidents; service on director.** The transaction of any acts, business, or activities within the State by any officer, agent, representative, employee, or member of any such association having officers, agents, members, or property without the State, on behalf of such association, or any of its members or affiliated local associations, shall be deemed an appointment by the association of the director of commerce and consumer affairs to be the true and lawful attorney of the association, upon whom may be served all legal processes or notices in any action or proceeding against or involving the association growing out of the acts, business, or activities within the State giving rise to any cause of action, and the acts, business, or activities shall be a signification of the agreement of the association and its members that any such process or notice in any action, matter, or proceeding against or involving it, which is so served, shall be of the same legal force and validity as if served upon the association and its members personally. Service of such process or notice shall be made by filing a copy thereof in the office

of the director together with payment of a fee of [\$5] \$10, of which \$5 shall be deposited in the special fund authorized by section 416-97, and the balance deposited to the general fund of the State, and such service shall be sufficient service upon the association and its members; and notice of the service and a copy of the process or notice shall, within ten days thereafter, be sent by registered mail by the director to the association at its last known address and an affidavit of compliance with this section shall be filed with the court or other state agency or department before which the action, matter, or proceeding is pending. The filing shall be deemed service upon the association twenty days after the filing."

SECTION 5. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (k) to read as follows:

"(k) Any law to the contrary notwithstanding, the fees assessed or charged by any board or commission placed within the department of commerce and consumer affairs for administrative purposes or by the department for services provided to the public may be [established, pursuant to chapter 91, as separate application, examination, and license fees, and be] increased or decreased by the director of commerce and consumer affairs by rules adopted pursuant to chapter 91 to maintain a reasonable relation between the revenue derived from the fee and the cost or value of services rendered[.]; provided that with regard to the fees assessed or charged by any board or commission, the director may establish the fees as separate application, examination, and license fees."

SECTION 6. Provisions relating to the deposit of a portion of fees into the special fund authorized by section 416-97 shall terminate on June 30, 1984, at which time the entire amount of the fees shall be deposited to the general fund.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 2, 1983.)

ACT 154

S.B. NO. 1247

A Bill for an Act Relating to Motor and Other Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this bill is to clarify Act 194, Session Laws of Hawaii 1981, which provides for public access to motor vehicle registration information, while at the same time establishes procedures governing this access.

SECTION 2. Section 286-172, Hawaii Revised Statutes, is amended to read as follows:

"§286-172 Furnishing of information. (a) Subject to authorization granted by the chief justice with respect to the traffic records of the violations bureaus of the district courts and of the circuit courts, the director of transportation shall furnish[:] information contained in the statewide traffic records system in response to:

- (1) [Information contained in the statewide traffic records system to any person in response to a] Any request from a state, a political subdivision of a state, or a federal department or agency, or any other authorized person pursuant to rules [and regulations] adopted by the director of transportation under chapter 91[.];
- (2) [Motor vehicle registration information contained in the statewide traffic records system to any person under subsection (a) (1), provided that:
 - (A) Such person has] Any request from a person having a legitimate reason, as determined by the director, as provided under the rules adopted by the director under (1) above, to obtain the information for verification of vehicle ownership, traffic safety programs, or for research or statistical reports[.]; or
 - (3) [(B) Such] Any request from a person [is] required or authorized by law to give written notice by mail to owners of vehicles.

(b) Any person requesting [motor vehicle registration] information contained in the statewide traffic records system under subsection (a)(2) shall file an affidavit with the director stating the reasons for obtaining the information and making assurances that the information will be used only for such reasons, that individual identities will be properly protected, and that the information will not be used compile a [mailing] list of individuals for the purposes of any commercial solicitation[,] by mail or otherwise, or the collection of delinquent accounts or any other purpose not allowed or provided for by the rules [and regulations].

(c) [If] The information provided to any person qualifying to receive information under subsection (a)(2) [requests the entire file of the motor vehicle registration information contained in the statewide traffic records system, the director shall provide the information only upon entering into a written agreement to provide the information] shall be provided for a fee and under such conditions as set by the director[.] pursuant to rules adopted by the director under chapter 91. [In addition to such terms and conditions that the director deems advisable, the agreement shall incorporate the assurances required in the affidavit provided for in subsection (b) and] The director shall require the person receiving the information to file with the director a corporate surety bond in favor of the State in [the] a penal sum [of \$25,000,] to be determined by the director conditioned upon the full and faithful compliance of the person receiving the information with the terms and conditions of the [agreement.] affidavit and the conditions set by the director. Any person otherwise qualified to receive information under subsection (a)(2) and who complies with the provisions of this section may receive all the information in the motor vehicle registration file if the person performs recalls on behalf of manufacturers of motor vehicles as authorized by the federal government or as deemed necessary by a manufacturer in order to protect the public health, safety, and welfare.

(d) Any person receiving information pursuant to subsections (a)(2) or (a)(3) shall hold harmless the State and any agency thereof from all claims for improper use or release of such information."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 2, 1983.)

ACT 155

H.B. NO. 304

A Bill for an Act Relating to the Board of Registration of Professional Engineers, Architects and Surveyors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 464-3, Hawaii Revised Statutes, is amended to read as follows:

"§464-3 Persons exempt from registration[; temporary permits]. The following shall be exempted from this chapter:

- (1) Persons practicing professional engineering, architecture, land surveying or landscape architecture solely as officers or employees of the United States;
- (2) Persons practicing professional engineering, architecture, land surveying or landscape architecture solely as officers or employees of the State or any political subdivision thereof on May 2, 1923, and thereafter only until the expiration of the terms of office or employment of such persons[;].
- [(3) Such nonresident persons as may be granted temporary permits by the board of registration of professional engineers, architects, and surveyors to practice professional engineering, architecture, land surveying or landscape architecture for a limited period. Temporary permits may be issued only to persons who present evidence satisfactory to the board that they possess the same qualifications as are required of applicants for permanent registration, and such temporary permits may be canceled at any time at the pleasure of the board. The fee for each temporary permit shall be \$50.]"

SECTION 2. Section 464-6, Hawaii Revised Statutes, is amended to read as follows:

"§464-6 Board of registration of professional engineers, etc., members; appointment; tenure; qualifications. There shall be a state board of registration of professional engineers, architects, [and] surveyors, and landscape architects hereinafter called "the board", to be appointed by the governor in the manner prescribed in section 26-34. The board shall consist of fourteen members, including at least three professional engineers, three professional architects, three professional surveyors, two professional landscape architects and three public members. Each county shall be represented by at least one member who is a resident of the county. Each member shall hold over after the expiration of his term until his successor is duly appointed and qualified.

Each member shall have been a resident of the State for at least three years. A member representing the profession shall have been engaged in the practice of [his] the member's profession for at least nine years immediately preceding the date of [his] the member's appointment. Members of the board shall serve without pay, except the secretary, who shall be allowed such compensation as the board may fix with the approval of the governor. Any member of the board, however, who incurs expenses in connection with the preparation and grading of examination papers shall be reimbursed for such expenses with the approval of the board.

The department of commerce and consumer affairs shall employ, subject to chapters 76 and 77, a secretary and such other clerical help as are necessary for the proper performance of the board's work and may make any reasonable expenditures which are necessary to carry out the functions of the board."

SECTION 3. Section 464-7, Hawaii Revised Statutes, is amended to read as follow:

"§464-7 Powers and duties of board; secretary; records. The board [of registration of professional engineers, architects, and surveyors] is entitled to the services of the attorney general in connection with its affairs, and may compel the attendance of witnesses upon subpoena, administer oaths, take testimony, and do all other things necessary and proper to carry out this chapter in all matters within its jurisdiction. It shall adopt and have an official seal and make, subject to chapter 91 and with the approval of the governor and the director of commerce and consumer affairs, bylaws and rules and regulations for the performance of its duties and the carrying on of its business and the enforcement of this chapter. It shall be provided with suitable office quarters by the State and shall hold at least two regular meetings during each year. It shall have a chairman, a vice-chairman, and a secretary, and a quorum shall consist of not less than six members, one of whom shall be either the chairman or vice-chairman.

All fees and other moneys received by the board shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund.

The board shall keep a record of its proceedings and all applicants for registration, as engineer, architect, surveyor, or landscape architect, the date of application, name, age, educational, and other qualifications, place of business and residence, whether or not an examination was required, and whether or not the applicant was registered and a certificate issued to him and the date of such action. The record shall be prima facie evidence of all matters therein contained."

SECTION 4. Section 464-8, Hawaii Revised Statutes, is amended to read as follows:

"§464-8 Qualifications for registration. No person shall be eligible for registration as a professional engineer, architect, land surveyor or landscape architect unless:

- (1) [He] The person is the holder of an unexpired certificate of registration issued to [him] the person by any jurisdiction, domestic or foreign, in which the requirements for registration at the time [he] the person was

first registered were of a standard satisfactory to the board of registration of professional engineers, architects, [and]surveyors[;], and landscape architects; provided, this paragraph shall be only applicable to professional engineering, architecture and landscape architecture and provided, that if the board is in doubt as to whether the standards were satisfactory, or as to whether the holder was required to fully comply with them, it shall require that [he] the holder successfully pass a written or oral examination, or both, prescribed by the board and designed to test [his] the holder's knowledge, skill, and competency in the profession for which registration is desired; or

- (2) [He] The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed an engineering or landscape architectural curriculum of four years or more, all as the case may be; and also has had three years of full-time lawful experience in engineering or landscape architecture work, as the case may be, of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has also successfully passed a written or oral examination, or both, prescribed by the board and designed to test [his] the person's knowledge, skill, and competency in the profession for which registration is desired; or

- (3) The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed a pre-landscape architecture or arts and science curriculum of four years or more; and has also had five years of full-time lawful experience in landscape architectural work of a character satisfactory to the board, and has also successfully passed a professional written or oral examination, or both, prescribed by the board and designed to test the person's knowledge, skill, and competency in the profession of landscape architecture; or

- [(3)] (4) [He] The person has had twelve years of full-time lawful experience in engineering or landscape architecture work as the case may be, of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has also successfully passed a written or oral examination, or both, prescribed by the board and designed to test [his] the person's knowledge, skill, and competency in the profession for which registration is desired; or

- [(4)] (5) (A) [He] The person holds a masters degree in architecture from an approved institution of higher education with training and education in the field of architecture adequate to the satisfaction of the board; and has also had one year of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a professional written or oral examination, or both, prescribed by the board and designed to test [his] the person's knowledge, skill, and competency in the profession of architecture; or

(B) [He] The person holds a bachelors degree in architecture from a school or college approved by the board as of satisfactory

standing, and has completed an architectural curriculum of five years; and also had two years of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a professional written or oral examination, or both, prescribed by the board and designed to test [his] the person's knowledge, skill, and competency in the profession of architecture; or

- [(5)] (6) [He] The person is a graduate of a school or college approved by the board as of satisfactory standing and has completed a pre-architecture or arts and science curriculum of four years or more; and has also had five years of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a qualifying written examination and a professional written or oral examination, or both, prescribed by the board and designed to test [his] the person's knowledge, skill, and competency in the profession of architecture; or
- [(6)] (7) [He] The person is a graduate of a community college or other technical training school approved by the board as of satisfactory standing, and has completed an architectural technology curriculum of two years or more; and has also had eight years of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a qualifying written examination and a professional written or oral examination, or both, prescribed by the board and designed to test [his] the person's knowledge, skill, and competency in the profession of architecture; or
- [(7)] (8) [He] The person has had eleven years of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a qualifying written examination and a professional written or oral examination, or both, prescribed by the board and designed to test [his] the person's knowledge, skill, and competency in the profession of architecture; or
- [(8)] (9)¹ [He] The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed a geo-science, civil engineering or general engineering curriculum of four years or more; and has also had three years of full-time lawful experience in land surveying of a character satisfactory to the board; and has also successfully passed a professional written or oral examination, or both, prescribed by the board and designed to test [his] the person's knowledge, skill,¹ and competence in the profession of land surveying; or
- [(9)] (10) [He] The person is a graduate of a community college approved by the board as of satisfactory standing, and has completed a civil engineering technology (survey option) curriculum of two years or more; and has also had seven years of full-time lawful experience in land surveying of a character satisfactory to the board; and has also successfully passed a qualifying written examination and a professional written or oral examination, or both, prescribed by the board and

designed to test [his] the person's knowledge, skill,¹ and competency in the profession of land surveying; or

- (10) (11) [He] The person has had eleven years of full-time lawful experience in land surveying of a character satisfactory to the board; and has also successfully passed a qualifying written examination and a professional written or oral examination, or both, prescribed by the board and designed to test [his] the person's knowledge, skill, and competency in the profession of land surveying.

In addition to the foregoing requirements, the board[,] may, in its discretion, require additional proof that the applicant is competent to practice professionally, and whenever the board is not fully satisfied from the results of an examination that any applicant is competent to practice professionally, it may give [him] the applicant a further examination or examinations.

No person shall be eligible for registration as a professional engineer, architect, land surveyor, or landscape architect who is not of good character and reputation."

SECTION 5. Section 464-9, Hawaii Revised Statutes, is amended to read as follows:

"§464-9 Applications for and certificates of registration; renewal.

Application for registration shall be made upon blanks to be furnished by the board [of registration of professional engineers, architects, and surveyors] and shall be signed and sworn to by the applicant. With each application there shall be paid to the board the sum of \$30 as an application fee, the fee to be nonreturnable after the application has been entered in the records of the board.

For each examination, or repetition thereof in whole or in part as shall be limited or permitted by the rules and regulations of the board, the candidate shall pay to the board a sum of \$25 as an examination fee; provided, where the candidate is eligible to take only that part of the examination pertaining to engineering fundamentals he shall pay \$20. The fee paid shall not be refundable; provided, if a candidate after having paid the fee is unable for any reason beyond his control to participate in the examination, the board may extend the time of the candidate's participation to the next regular examination date and credit the candidate the amount of the fee paid.

Upon qualifying for registration, the applicant shall pay the sum of \$15 as a registration fee, and upon receipt thereof by the board shall thereupon be registered as a professional engineer, architect, land surveyor or landscape architect, and shall receive a certificate thereof from the board signed by the chairman and secretary.

Every person registered who, as an individual or as a member of a firm or corporation, conducts an office or other place of business for the practice of his profession shall display his original certificate in a conspicuous manner, in his principal office or place of business.

Every certificate of registration expires on April 30 of each even-numbered year following its issuance and becomes invalid after that date unless renewed. The secretary of the board shall mail, at least one month in advance of the date of expiration of the certificate of registration, a notice to every person registered hereunder giving the date of expiration and the amount required for the renewal

thereof. The fee for renewal shall be \$30 for each renewal certificate. Certificates of registration which have expired for failure to pay renewal fees on or before the date hereinabove required may be reinstated within one year of the expiration date upon payment of a fee of \$60 for each renewal certificate."

SECTION 6. Section 464-10, Hawaii Revised Statutes, is amended to read as follows:

"§464-10 Suspension or revocation of certificates; hearings. The board [of registration of professional engineers, architects, and surveyors] may revoke or suspend the certificate of registration of any person hereunder who is found guilty of any fraud or deceit in obtaining the certificate or of gross negligence, incompetency, or misconduct in the practice of his profession or who is convicted of violating this chapter or the rules or regulations of the board. Any person may prefer charges in writing with the secretary of the board against any person holding a certificate.

In every case where it is proposed to revoke or suspend the certificate of registration, the board shall give the person concerned notice and hearing in conformity with chapter 91. The notice shall be given in writing by registered or certified mail with return receipt requested at least fifteen days before the hearing.

In all proceedings before it, the board and each member thereof shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence, and examining witnesses, as are possessed by circuit courts. In case of disobedience by any person of any order of the board, or of any member thereof, or of any subpoena issued by it, or by a member, or the refusal of any witness to testify to any matter regarding which he may be questioned lawfully, any circuit judge, on application by the board, or a member thereof, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein."

SECTION 7. Section 464-11, Hawaii Revised Statutes, is amended to read as follows:

"§464-11 Contents of certificates; use of seal mandatory when. Each certificate of registration issued hereunder shall bear the date of the original registration and shall specify whether the person to whom it is issued is authorized by the board [of registration of professional engineers, architects, and surveyors] to practice professional engineering, architecture, land surveying or landscape architecture.

In the case of a certificate issued to a person authorizing him to practice professional engineering, the certificate shall furthermore indicate the major branch or branches of engineering in which the person has especially qualified.

Every registered person may use a seal or rubber stamp of the design authorized by the board bearing his name and the words "registered professional engineer", "registered architect", "registered land surveyor", or "registered landscape architect", or otherwise as may be authorized by the board.

All plans, specifications, maps, and reports prepared by or under the supervision of a registered engineer, architect, surveyor, or landscape architect shall be stamped with such seal or stamp when filed with public officials. It shall be unlawful for anyone to seal or stamp any document with such seal or stamp after the

certificate of the registrant named thereon has expired or has been revoked or suspended unless such certificate has been renewed or reissued.

No official of the State nor of any political subdivision thereof, charged with the enforcement of laws or ordinances relating to the construction or alteration of buildings or structures, shall accept or approve any plans or specifications that are not stamped with the seal of a registered architect holding an unexpired certificate or with the seal of a registered engineer holding a certificate on which has been indicated that he has qualified in the structural engineering branch, unless the building or structure, for which the plans or specifications are submitted is exempted from this chapter, and no map or survey shall be filed in the land court unless stamped with the seal of a registered land surveyor."

SECTION 8. Section 464-12, Hawaii Revised Statutes, is amended to read as follows:

"§464-12 Corporations and partnerships. A corporation or copartnership may engage in the practice of professional engineering, architecture, surveying or landscape architecture in the State, provided the person or persons connected with the corporation or copartnership directly in charge of the professional work is duly registered hereunder, and provided further that the name or names of such person or persons has or have been filed with the board [of registration of professional engineers, architects, and surveyors] by the corporation or copartnership."

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved June 2, 1983.)

Note

1. Underscoring missing.

ACT 156

H.B. NO. 319

A Bill for an Act Relating to Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 46-15.2, Hawaii Revised Statutes, is amended to read as follows:

"§46-15.2 Housing; additional county powers. In addition and supplemental to the powers granted to counties by section 46-15.1, any county shall have and may exercise any of the following powers:

- (1) To provide assistance and aid to persons of low and moderate income in acquiring housing by providing loans secured by a mortgage, including by acquiring such loans from private lenders for which such county has made advance commitment to acquire such loans, and to make and execute contracts with private lenders or a public agency for the origination and servicing of such loans and pay the reasonable value of such services;

- (2) In connection with the exercise of any powers granted under this section or section 46-15.1, to establish one or more loan programs and to issue bonds under chapter 47 or 49 to provide moneys to carry out such programs; provided that:
 - (A) If bonds are issued pursuant to chapter [49,] 47, the county may establish such qualifications as it deems appropriate;
 - (B) If bonds are issued pursuant to chapter [47,] 49, any loan program shall comply with the provisions of part II of chapter 356;
 - (C) If bonds are issued pursuant to chapter 49, any loan program established pursuant to this section shall be and constitute an "undertaking" under section 49-1 and the provisions of chapter 49 shall apply to such loan program to the extent applicable;
 - (D) In connection with the establishment of any loan program pursuant to this section, a county may employ financial consultants, attorneys, real estate counselors, appraisers, and such other consultants as may be required in the judgement of the county and fix and pay their compensation from funds available to the county [therefore;] therefor;
 - (E) Notwithstanding any limitation otherwise established by law, with respect to the rate of interest on any loan made under any loan program established pursuant to this section, such loan may bear such rate or rates of interest per year as the county shall determine; provided no loan made from the proceeds of any bonds of the county shall be under terms or conditions which would cause the interest on such bonds to be deemed subject to income taxation by the United States of America;
 - (F) Notwithstanding any limitation otherwise established by law, with respect to the amount of compensation permitted to be paid for the servicing of loans made under any loan program established pursuant to this section, a county may fix such reasonable compensation as the county may determine;
 - (G) Notwithstanding the requirement of any other law, a county may establish such separate funds and accounts with respect to any loan program established pursuant to this section as such county may deem appropriate;
 - (H) Notwithstanding any provision of chapter 47 or 49, bonds issued to finance a loan program established pursuant to this section may be sold at public or private sale at such price and bearing interest at such rate or rates per year, may be made redeemable before maturity at the option of the county, the holder, or both, at such price or prices and upon such terms and conditions, and may be issued in coupon or registered form, or both, all as the county may determine;
 - (I) If deemed necessary or advisable, the county may designate a national or state bank or trust company within or without the State to serve as trustee for the holders of bonds issued to finance a loan

program established pursuant to this section and enter into a trust indenture, trust agreement, or indenture of mortgage with such trustee whereby such trustee may be authorized to receive and receipt for, hold, and administer the proceeds of such bonds and to apply the proceeds to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the revenues and other receipts derived by the county under the loans made from the proceeds of such bonds and to apply such revenues and receipts to the payment of the principal of, or interest on such bonds, or both. Any such trust indenture, trust agreement, or indenture of mortgage entered into with the trustee may contain any covenants and provisions as may be deemed necessary, convenient, or desirable by the county in order to secure such bonds. The county may pledge and assign to the trustee any agreements related to the loans financed from the proceeds of such bonds and the rights of the county thereunder, including the rights to revenues and receipts derived thereunder. Upon appointment of the trustee, the director of finance may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of such bonds, or may elect to limit the functions the director of finance performs as such fiscal agent, and may appoint the trustee to serve as the fiscal agent, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the director of finance deems necessary, advisable, or expedient, including, without limitation, the holding of such bonds and coupons which have been paid and the supervision and conduction or the destruction thereof in accordance with law;

- (J) If a trustee is not appointed to collect, hold, and administer the proceeds of bonds issued to finance a loan program established pursuant to this section, or the revenues and receipts derived by the county under the loans made from the proceeds of such bonds, all as provided in subparagraph (G), the director of finance of such county may hold such proceeds or revenues and receipts, as the case may be, in a separate account in the treasury of the county, to be applied solely to the carrying out of the ordinance, trust indenture, trust agreement, or indenture of mortgage, if any, authorizing or securing such special purpose revenue bonds;
- (3) To acquire such policies of insurance and enter into such banking arrangements as such county may deem necessary in order to better secure bonds issued to finance a loan program established pursuant to this section; and

ACT 157

- (4) To do any and all other things necessary or appropriate to carry out the purposes and exercise the powers granted in section 46-15.1 and this section."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1983.)

ACT 157

H.B. NO. 402

A Bill for an Act Relating to Minors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 352, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§352- Public disclosure of information upon escape. The director, with the concurrence of the police, shall publicly disclose the name, the place of residence, a photograph, and the prior adjudications for offenses which, if the person were an adult, would be a felony, of any person who escapes while committed to the youth correctional facility; provided that the crime for which the person was committed involved the use of force or violence or the threat of force or violence, which is punishable as a felony."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 158

H.B. NO. 411

A Bill for an Act Relating to Public Employment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 81-2, Hawaii Revised Statutes, is amended to read as follows:

"§81-2 Advisory committee on training established. There is established an advisory committee on training to be made up of the director of personnel services; the director of finance; the director of the personnel system of the judiciary; the directors of the personnel departments of the several counties; the dean of continuing education; and three members from among the exclusive representatives of collective bargaining units 1, 2, 3, 4, 9, 10,¹ and 13. The committee shall meet at [least quarterly] any time upon the call of the chairperson but at least once yearly to recommend program plans and strategies for an overall state training plan, assist

in coordinating course offerings, and make recommendations for updating the state training manual as necessary; provided that the authority of the committee shall be advisory as opposed to policymaking. The director of personnel services shall chair the committee."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1983.)

Note

1. Underscoring missing.

ACT 159

H.B. NO. 502

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 333, Hawaii Revised Statutes, is amended by amending the title of part I to read as follows:

"PART I. [PHENYLKETONURIA] TESTING OF NEWBORN INFANTS FOR CONGENITAL DISEASES"

SECTION 2. Section 333-1, Hawaii Revised Statutes, is amended to read as follows:

"§333-1 [Test] Tests for phenylketonuria and hypothyroidism. The physician, midwife, or other person attending a newborn child shall cause a phenylketonuria test and a hypothyroidism test to be administered to the child; provided, that this section shall not apply if the parents, guardian, or other person having¹ custody or control of the child object thereto on the grounds that the [test] tests [conflicts] conflict with their religious tenets and practices.

[The department of health shall adopt rules and regulations to carry out the purposes and provisions of this section, including, but not limited to, administration of phenylketonuria tests, keeping of records and related data, and reporting of positive test results.]"

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect on January 1, 1984.

(Approved by June 2, 1983.)

Note

1. Prior to amendment "the" appeared here.

A Bill for an Act Relating to the Hawaii Administrative Procedure Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 91-14, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Within [fifteen] twenty days after the determination of the contents of the record on appeal in the manner provided by the rules of court, or within such further time as the court may allow, the agency shall transmit to the reviewing court the record of the proceeding under review. The court may require or permit subsequent corrections or additions to the record when deemed desirable.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on January 1, 1984.

(Approved June 2, 1983.)

A Bill for an Act Relating to Gambling.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 712-1221, Hawaii Revised Statutes, is amended to read as follows:

“**§712-1221 Promoting gambling in the first degree.** (1) A person commits the offense of promoting gambling in the first degree if he knowingly advances or profits from gambling activity by:

- (a) Engaging in bookmaking to the extent that he receives or accepts in any one day more than five bets totaling more than \$500; or
 - (b) Receiving in connection with a lottery, or mutuel scheme or enterprise, money or written records from a person other than a player whose chances or plays are represented by such money or records; or
 - (c) Receiving[,] or having become due and payable in connection with a lottery, mutuel, or other gambling scheme or enterprise, more than \$1,000 in any one day [of money] played in the scheme or enterprise.
- (2) Promoting gambling in the first degree is a class C felony.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1983.)

A Bill for an Act Relating to Stadium Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 109, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§109- Lost and found money or property at the stadium. All money or property found at the stadium shall be reported or delivered by the finder to the stadium lost and found, and when so delivered shall be held by the stadium for forty-five days or until claimed by some person who establishes title or right of custody thereto to the satisfaction of the stadium manager, whichever is shorter. In the event of such establishment of title or right of custody, the money or property shall be delivered to the claimant by the manager or the manager's agent. If after forty-five days no claimant establishes a right to the money or property, the money or property may be claimed by the person who delivered it to the stadium lost and found; provided that if the person who delivered it to the stadium lost and found fails to claim the money or property within thirty days after being notified by the manager, the manager shall deposit the money into the state treasury to the credit of the stadium special fund or shall dispose of the property by public auction. The manager shall place notice in a newspaper of general circulation giving details as to time and place of the auction and giving notice to all persons interested in claiming the property that unless claims are made by persons who can provide satisfactory proof of ownership before a specified date, the property will be sold at public auction to the highest bidder; provided that if the manager considers the highest bid to be insufficient, the manager shall have the right to decline the sale to the highest bidder and may reoffer the property at a subsequent public auction. On the day and at the place specified in the notice, all property for which no satisfactory proof of ownership is made shall be sold by auction by or under the direction of the manager.

If any property which is of a perishable nature or which is unreasonably expensive to keep or safeguard remains unclaimed at the stadium, the manager may sell that property at public auction, at such time and after such notice as is reasonable under the circumstances. If the manager determines that any property delivered to the manager pursuant to this section has no apparent commercial value, the manager may at any time thereafter destroy or otherwise dispose of the property.

The manager shall deposit into the stadium special fund all moneys received from the sale, destruction, or disposition of any property. No action or proceeding shall be brought or maintained against the State or any officer thereof on account of such sale, destruction, or disposition. The purchaser of property at any sale conducted by the manager pursuant to this section shall receive good title to the property purchased and shall take possession of the property free from any and all claims of the owner, prior owners, and any person claiming title.

For purposes of this section, notice by regular mail to the last known address of the person who delivered the money or property to the stadium lost and found shall be deemed sufficient."

SECTION 2. New material is underscored.¹

ACT 163

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 163

H.B. NO. 1231

A Bill for an Act Relating to the Housing Loan and Mortgage Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Act 278, Session Laws of Hawaii, Regular Session of 1982, is amended by amending SECTION 15 to read as follows:

“SECTION 15. This Act shall take effect on July 1, 1982 [, and is repealed on December 31, 1983].”

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1983.)

ACT 164

H.B. NO. 1232

A Bill for an Act Relating to Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 359G-4.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The authority may develop, on behalf of the State or in partnership, or may assist under a government assistance program in the development of housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, development and improvement of land, and the construction of units thereon; provided that:

- (1) The authority finds the project is consistent with the purpose and intent of this chapter, and meets minimum requirements of health and safety;
- (2) The development of the proposed project does not contravene any safety standards or tariffs approved by the public utilities commission for public utilities; and
- (3) The legislative body of the county in which the project is to be situated shall have approved the project.
 - (A) The legislative body shall approve or disapprove the project within forty-five days after the authority has submitted the preliminary plans and specifications for the project to the legislative body. If after the forty-fifth day a project is not disapproved, it shall be deemed approved by the legislative body.

- (B) No action shall be prosecuted or maintained against any county, its officials, or employees, on account of actions taken by them in reviewing, approving, or disapproving the plans and specifications.
- (C) The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not deviate from the preliminary plans and specifications. The final plans and specifications for the project [approved by the legislative body,] shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of sections 501-85 and 502-17, the executive director of the authority or the responsible county official may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and registrar."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 2, 1983.)

ACT 165

H.B. NO. 1401

A Bill for an Act Relating to the Authorization of Special Purpose Revenue Bonds for Health Care Facilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that the issuance of refunding special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. The department of budget and finance is authorized to issue from time to time refunding special purpose revenue bonds in such principal amounts as the department shall determine to be necessary to refund the special purpose revenue bonds authorized in Act 16, First Special Session Laws of Hawaii 1981, to assist the Wahiawa General Hospital, a not-for-profit corporation that provides health care facilities to the general public. In making such determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 3. The refunding special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part II, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 2, 1983.)

A Bill for an Act Relating to Cooperative Housing Corporations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. Section 519-3, Hawaii Revised Statutes, provides specific guidelines for renegotiation of lease rent terms for all leases executed by a cooperative housing corporation as lessee. However, the language in section 519-3(a), Hawaii Revised Statutes, seems to apply only to cooperative housing corporations that are lessees. It is unclear whether cooperative housing corporations which are sublessees are included in this section. This Act is intended to protect all cooperative housing corporations involved in obtaining leases or subleases by way of assignments, by establishing specific procedures for renegotiation of those contracts and specific limits on the maximum renegotiated rental amounts.

SECTION 2. Section 519-3(a), Hawaii Revised Statutes, is amended to read as follow:

"§519-3¹ Leases of real property by a cooperative housing corporation. (a) All leases, including subleases executed by a cooperative housing corporation as lessee, and all leases, including subleases acquired by a cooperative housing corporation by assignment, whether executed prior to or after [[]June 12, 1982,[]] which directly or by incorporation provide for reopening of the contract for renegotiation of lease rent terms, shall provide or be construed in conformity with the following:

- (1) Such renegotiations shall not be scheduled more frequently than once every ten years; provided that the first of such reopenings shall not be scheduled prior to the fifteenth year following the initial date of the lease; and
- (2) Upon renegotiation, the lease rent payable by a cooperative housing corporation as lessee, sublessee, or assignee shall not exceed the amount derived by multiplying the "owner's basis" by the original percentage rate."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 2, 1983.)

Note

1. Brackets missing.

A Bill for an Act Relating to the Hawaii Business Corporation Act.

See Volume II

ACT 168

S.B. NO. 80

A Bill for an Act Relating to Juveniles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-84, Hawaii Revised Statutes, is amended to read as follows:

"§571-84 Records. (a) The court shall maintain records of all cases brought before it. In proceedings under section 571-11, and in paternity proceedings under chapter 584, the following records shall be withheld from public inspection: the court docket, petitions, complaints, motions, and other papers filed in any case; transcripts of testimony taken by the court; and findings, judgments, orders, decrees, and other papers other than social records filed in proceedings before the court. The records other than social records shall be open to inspection by the parties and their attorneys, by an institution or agency to which custody of a minor has been transferred, by an individual who has been appointed guardian; with consent of the judge, by persons having a legitimate interest in the proceedings from the standpoint of the welfare of the minor; and, pursuant to order of the court or the rules of court, by persons conducting pertinent research studies, and by person, institutions, and agencies having a legitimate interest in the protection, welfare, or treatment of the minor.

(b) Reports of social and clinical studies or examinations made pursuant to this chapter shall be withheld from public inspection, except that information from such reports may be furnished, in a manner determined by the judge, to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare, and treatment of the minor.

(c) No information obtained or social records prepared in the discharge of official duty by an employee of the court shall be disclosed directly or indirectly to anyone other than the judge or others entitled under this chapter to receive such information, unless and until otherwise ordered by the judge.

(d) Except for the immediate use in a criminal case, any photograph or fingerprint taken of any child shall not be used or circulated for any other purpose and shall be subject to all rules and standards provided for in section 571-74.

(e) The records of any police department, and of any juvenile crime prevention bureau thereof, relating to any proceedings authorized under section 571-11 shall be confidential and shall be open to inspection only by persons whose official duties are concerned with the provisions of this chapter, except as provided in subsection (f) herein or as otherwise ordered by the court.

(f) Any such police records concerning traffic accidents in which a child or minor coming within section 571-11(1) is involved shall, after the termination of any proceeding under section 571-11(1) arising out of any such accident, or in any event after six months from the date of the accident, be available for inspection for by the parties directly concerned in the accident, or their duly licensed attorneys acting under written authority signed by either party. Any person who may sue because of death resulting from any such accident shall be deemed a party concerned.

(g) In all proceedings concerning violations other than traffic violations, in which a minor coming within section 571-11(1) is involved and after the termination of any proceeding under section 571-11(1) arising out of any such violation in which the minor has been adjudicated a law violator, the name and address of the minor, and, when practicable, the name of the parent or guardian shall be disclosed pursuant to the order of the court or the Hawaii Family Court Rules, to the parties directly concerned with the alleged violation, or their duly licensed attorneys acting under written authority signed by either party. For the purpose of this section "parties directly concerned" means any person who may sue because of death, injury, or damage resulting from any violation other than a traffic violation in which a minor coming within section 571-11(1) is involved.

The minor, and, when practicable, the minor's parents or custodian, and the attorney of the minor shall be notified when the minor's name and address have been released.

(h) Evidence given in proceedings under section 571-11(1) or (2) shall not in any civil, criminal, or other cause be lawful or proper evidence against the child or minor therein involved for any purpose whatever, except in subsequent proceedings involving the same child under section 571-11(1) or (2)."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1983.)

Note

1. No bracketed material.

A Bill for an Act Relating to Restitution for Vandalism of Public Schools.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 298-27, Hawaii Revised Statutes, is amended to read as follows:

"§298-27 [Damage] **Vandalism damage to public school property.** (a) Any pupil found to be responsible for an act of vandalism against any public school, building, facility, or ground [may] shall make restitution in any manner including monetary restitution by the pupil or pupil's parents[,], or guardian, or both.

For the purpose of this section, "vandalism" shall include, but not be limited to, mischievous or malicious destruction of property, such as breakage of windows, lockers, and doors. The provisions of this section shall be in addition to and shall in no way limit the provisions of any other law concerning offenses against property rights.

(b) No pupil, parent, or guardian shall be required to make restitution in any manner unless the pupil and the parents or guardian have been notified and have been given an opportunity to be heard, on any report of vandalism involving the

pupil, and the pupil, parent, or guardian have executed a written agreement to make such restitution.

(c) The principal of the school in which the vandalism occurred shall make or order an investigation of the vandalism. If after such investigation, the principal has reasonable cause to believe that a specific pupil is responsible for the vandalism, the principal shall schedule a conference which such pupil and his or her parents or guardian[, and a public officer or employee designated by the district superintendent shall witness the conference proceedings]. Except for the principal of the school in which the vandalism occurred[, the officer or employee designated by the district superintendent], the pupil and the parents or guardian, no other person shall be permitted to be in the conference for any reason.

(d) At the conference, the principal of the school in which the vandalism occurred shall present [its] the findings of the investigation and the requirements of restitution to the pupil and parents or guardian.

If the pupil and the parents or guardian agree with the findings of the principal and the manner in which restitution is to be made, the principal and the pupil and parent or guardian shall execute a written agreement which shall specify the manner in which restitution is to be made. [The agreement shall be acknowledged and approved by the officer or employee designated by the district superintendent to witness the conference proceedings.]

Agreements shall be made only for damages that do not exceed \$3,500.

If restitution is made in this fashion, then all records and documents regarding the investigation and conference shall be destroyed. No information about the investigation, conference and the actions taken shall be communicated to any person not directly involved in the proceedings.

If the pupil and parent or guardian do not agree with the findings made by the principal, the principal shall preserve all the records and documents regarding the investigation and conference and shall report the findings to the district superintendent who shall review the findings and may refer the matter to the attorney general for any further action pursuant to section 577-3.

(e) If the damages exceed \$3,500, the principal shall report the matter to the district superintendent who shall refer the matter to the attorney general for any further action pursuant to section 577-3.

(f) Notwithstanding any provisions herein to the contrary, the State may elect to bring any appropriate action for the recovery of all damages to school properties. Nothing in this section shall limit the right of the State to bring an action against any person to recover such damages."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on August 1, 1983.

(Approved June 4, 1983.)

A Bill for an Act Relating to Hearings Before the Board of Land and Natural Resources.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to permit the board of land and natural resources to appoint masters to conduct public hearings on behalf of the full board for both subdivision and commercial use conservation district use applications. The board would be required to promulgate rules setting forth criteria and standards for the master and the situations in which a master may be appointed.

SECTION 2. Section 171-6, Hawaii Revised Statutes is amended to read:¹

"§171-6 Powers. Except as otherwise provided by law, the board of land and natural resources shall have the powers and functions granted to the heads of departments and the board of land and natural resources under chapter 26.

In addition to the foregoing, the board may:

- (1) Adopt a seal;
- (2) Administer oaths;
- (3) Prescribe forms of instruments and documents;
- (4) Promulgate rules and regulations, which rules and regulations, upon compliance with chapter 91, shall have the force and effect of law;
- (5) Set, charge, demand, and collect reasonable fees for the preparation of documents to be issued, for the surveying of public lands, and for the issuing of certified copies of its public documents and records, which fees, when collected, shall be deposited into the state general fund, unless otherwise specified in this chapter;
- (6) Establish additional restrictions, requirements, or conditions, not inconsistent with those prescribed in this chapter, relating to the use of particular land being disposed of, the terms of sale, lease, license, or permit, and the qualifications of any person to draw, bid, or negotiate for public land;
- (7) Reduce or waive the lease rental at the beginning of the lease on any lease of public land to be used for any agricultural or pastoral use, or for resort, commercial, industrial, or other business use where the land being leased requires substantial improvements to be placed thereon; provided that such reduction or waiver shall not exceed two years for land to be used for any agricultural or pastoral use; or exceed one year for land to be used for resort, commercial, industrial, or other business use;
- (8) Delegate to the chairman or employees of the department of land and natural resources, subject to the board's control and responsibility, such powers and duties as may be lawful or proper for the performance of the functions vested in the board; [and]
- (9) Utilize arbitration under chapter 658 to settle any controversy arising out of any existing or future lease[.];

[[(10)]] Set, charge and collect reasonable fees in an amount sufficient to defray the cost of performing or otherwise providing for the inspection of activities permitted upon the issuance of a land license involving a commercial purpose[.];² and

(11) Appoint masters or hearing officers to conduct public hearings as provided by law and under such conditions as the board by rules shall establish."

SECTION 3. Section 183-41, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) There are hereby established forest and water reserve zones in each of the counties. These zones shall initially encompass all of those areas in the various counties, either government or privately owned, contained within the forest reserve boundaries as established on January 21, 1957. No use, except a nonconforming use as defined in subsection (b), shall be made of such areas unless such use is in accord with a zoning regulation adopted pursuant to subsection (c)(3), or unless such use is allowed under a temporary variance granted by the department of land and natural resources; provided that any owner of land within the forest reserve boundaries who shall desire to establish a use or uses for his land, or a greater or different use or uses, if his land is classed as nonconforming shall make application in accordance with subsection (d), and if within one hundred eighty days after receipt of the application the department shall fail to give notice, hold a hearing, and render a decision consistent with the standards set forth in subsection (c)(1), the owner may automatically put his land to the use or uses requested in his application. When an environmental impact statement is required pursuant to chapter 343 [of the Hawaii Revised Statutes], or when a contested case hearing is requested pursuant to chapter 91, the one hundred eighty days may be extended to an additional ninety days at the request of the applicant. Any [requests] request for additional extensions in either case shall be subject to the approval of the board."

SECTION 4. Section 183-41, Hawaii Revised Statutes, is amended by amending subsection (d) to read:

"(d) Notice, hearings. Whenever any landowner or government agency whose property will be directly affected makes an application to change the boundaries or permitted uses of any subzone, or to establish a subzone with certain permitted uses, or where the department proposes to make the change or changes itself, the change or changes shall be put in the form of a proposed regulation by the applicant and the department shall then give notice by publication at least once in a newspaper of general circulation in the State and in the county in which the property is located and by mail to all landowners whose property is directly affected by any proposed change. The notice shall be given not less than twenty days prior to the date set for hearing, and shall state the time and place of the hearing and the changes proposed. Any proposed regulation and the necessary maps shall be made available for inspection by interested members of the public. The hearing [shall be a full hearing before the board,] shall be held in the county in which the land is located[, and may [not] be delegated to an agent or representative of the board as may otherwise be provided by law[.] and in accordance with rules adopted by the board.

ACT 171

For the purpose of its public hearing or hearings, the department shall have power to summon witnesses, administer oaths, and require the giving of testimony.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 4, 1983.)

Notes

1. Wrong version of section is amended.
2. Underscoring missing.

ACT 171

H.B. NO. 1417

A Bill for an Act Relating to the Child Protective Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER CHILD PROTECTIVE ACT

PART I. PURPOSE, CONSTRUCTION, DEFINITIONS

§ -1 **Purpose; construction.** This chapter creates within the jurisdiction of the family court a child protective act in order to safeguard, treat, and provide permanent planning for children who have been harmed or threatened with harm.

The legislature finds that children deserve and require competent and responsible parenting and safe and secure homes. The legislature finds that children who have been harmed or threatened with harm are less likely than other children to realize their full educational, vocational, and emotional potential, and become law-abiding, productive, self-sufficient citizens, and are more likely to become involved with the mental health system, the juvenile justice system, or the criminal justice system, as well as become an economic burden on the State. The legislature finds that prompt identification, reporting, investigation, adjudication, treatment, and disposition of cases involving children who are harmed or threatened with harm are in both the children's and society's best interests because such children are defenseless, exploitable, and vulnerable.

The policy and purpose of this chapter is to provide children with prompt and ample protection from the harms detailed herein, with an opportunity for timely reconciliation with their families where practicable, and with timely and permanent planning so they may develop and mature into responsible, self-sufficient, law-abiding citizens. This permanent planning should effectuate placement with a child's own family when possible and should be conducted in a expeditious fashion so that where return to the child's family is not possible as provided in this chapter,

such children will be promptly and permanently placed with responsible, competent, substitute parents and families, and their place in such families secured by termination of parental rights, adoption, guardianship, long-term foster custody orders, if no other option is available, by other order of the court, or arrangement as best provides for permanency.

This chapter shall be liberally construed to serve the best interests of the children and the purposes set out in this chapter.

§ -2 **Definitions.** When used in this chapter, unless the context otherwise requires:

“Adjudicatory hearing” means a fact-finding hearing to determine the truth of the allegations stated in a petition filed under this chapter.

“Authorized agency” means the department or other public or private agency, a person, organization, corporation, and benevolent society or association which is licensed or approved by the department or the court to receive children for control, care, maintenance, or placement.

“Child” means a person less than eighteen years of age.

“Child protective proceedings” means any action, hearing, or other civil proceeding before the court under this chapter.

“Court” means one of the family courts established pursuant to the family court act.

“Department” means the department of social services and housing and its authorized representatives.

“Disposition hearing” means a hearing to determine, in the best interests of the child, the orders of disposition, including an appropriate service plan.

“Emergency foster care” means a residence designated as suitable by the department or the court for the temporary care of a child pending final orders of disposition.

“Family” means each legal, adjudicated, or presumed parent, the natural mother, a concerned natural father as defined under section 578-2, each parent’s spouse, or former spouses, each sibling or person related by consanguinity or marriage, each person residing in the same dwelling unit, and any other person who or legal entity which is a child’s legal or physical custodian, or guardian, or who is otherwise responsible for the child’s care, other than an authorized agency which assumes such a legal status or relationship with the child under this chapter.

“Family supervision” means the legal status created pursuant to section - 21(a)(2) or by an order of court after the court has determined that the child is presently in the legal custody of a family which is willing and able to properly exercise the duties and rights of a legal custodian with the assistance of a service plan. Family supervision vests in an authorized agency the following duties and rights, subject to such restriction as the court deems to be in the best interest of the child:

- (1) To monitor and supervise the child and the child’s family members who are parties, including but not limited to, reasonable access to each of the family members who are parties, and into the child’s family home; and

- (2) To have authority to determine whether, and if so, where and with whom the child may be placed in foster care; provided that the child shall not be placed in foster care outside the State without prior approval of the court.

If the child is placed in foster care, the authorized agency shall thereby assume foster custody of the child.

An authorized agency shall not be liable to third persons for acts of the child solely by reason of its possessing the status of family supervision in relation to the child.

"Foster care" means a residence designated as suitable by the department or the court for the appropriate care of a child upon final orders of disposition.

"Foster custody" means the legal status created pursuant to section 21(a)(2) or by an order of court after the court has determined that the child is presently without family or that the child's family is not presently willing and able to properly exercise the duties and rights of a legal custodian.

- (1) Foster custody vests in a foster custodian the following duties and rights:

- (A) To determine where and with whom the child shall be placed in foster care; provided that the child shall not be placed in foster care outside the State without prior approval of the court; and provided further that the foster custodian may permit the child to resume residence with the family from which the child was removed after providing prior written notice to the court and to all parties, which notice shall state that there is no objection of any party to such a return; and upon the return of the child to the family, foster custody automatically shall be revoked and the child and the child's family who are parties shall be under the family supervision of the former foster custodian.
- (B) To assure that the child is provided with food, clothing, shelter, and incidental necessities.
- (C) To monitor the provision to the child of appropriate care, education, and discipline.
- (D) To provide all consents which are required for the child's physical or psychological health or welfare, including but not limited to, ordinary medical, dental, psychiatric, psychological, educational, employment, recreational, or social needs; and to provide all consents for any other medical care or treatment, including but not limited to surgery, if such care or treatment is deemed by two physicians licensed or authorized to practice in this State to be necessary for the child's physical or psychological health or welfare, and the persons who are otherwise authorized to provide such consent are unable or have refused to consent to such care or treatment.
- (E) To provide the court with information concerning the child that the court may require at any time, and to file written reports to the court stating the then-current situation of a child under its foster

custody at intervals not to exceed six months, unless otherwise ordered by the court.

- (2) The court, in its discretion, may vest foster custody of a child in any authorized agency in the child's best interest; provided that such rights and duties which are so assumed by an authorized agency shall supersede the rights and duties of any legal custodian of the child, other than as is provided in paragraph (4).
- (3) An authorized agency shall not be liable to third persons for the acts of the child solely by reason of the agency's status as temporary foster custodian or foster custodian of the child.
- (4) Unless otherwise ordered by the court, a child's family member shall retain the following rights and responsibilities after a transfer of foster custody, to the extent that such family member possessed such rights and responsibilities prior to the transfer of foster custody, to wit: the right of reasonable visitation at the discretion of the authorized agency; the right to consent to adoption, to marriage, or to major medical care or treatment, except as provided in paragraph (1)(D); and the continuing responsibility for support of the child, including but not limited to repayment for the cost of any and all care, treatment, or any other service supplied or provided by the temporary foster custodian, the foster custodian, or the court for the child's benefit.

"Guidelines for determining whether the child's family is willing and able to exercise or to provide the child with a safe home" means that the following criteria shall be fully considered:

- (1) The magnitude of the harm suffered by the child;
- (2) The frequency of the harm suffered by the child;
- (3) Whether the child has been the victim of repeated harm after initial report and intervention by a social agency;
- (4) The age of the child;
- (5) The physical and mental vulnerability of the child;
- (6) Whether the child is fearful of living in the child's family home;
- (7) Whether the child is willing to return to the child's family home;
- (8) The results of psychiatric/psychological evaluations of the child and of the potential long-term caretakers;
- (9) Whether there is a history of abusive or assaultive conduct by the child's family or others who have access to the child's family home;
- (10) Whether there is a history of substance abuse by the child's family or others who have access to the child's family home;
- (11) Whether the nonperpetrators in the child's family home are willing and able to protect the child;
- (12) Whether the perpetrator of the harm to the child is identified;
- (13) Whether the perpetrator has admitted and acknowledged the perpetrator's responsibility for the harm;
- (14) Whether the perpetrator has apologized to the child for the harm;
- (15) The motive of the perpetrator;

- (16) Whether the perpetrator has been removed from the child's family home and will not return for any reason without the prior permission of the court;
- (17) The willingness and ability of the child's family to seek out, accept, and complete counseling services, to cooperate with and facilitate close supervision by an appropriate social agency;
- (18) The willingness and ability of the child's family to effect positive environmental and personal changes within a reasonable period of time;
- (19) Whether the child's family demonstrates adequate parenting skills, such as providing the child and other children under their care with:
 - (A) Minimally adequate health and nutritional care;
 - (B) Stimulation, care, nurturance, and appropriate discipline consistent with the child's physical and psychological development;
 - (C) Guidance and supervision consistent with the child's safety;
 - (D) Safe home environment; and
 - (E) Protection from repeated exposure to violence even though not directed at the child;
- (20) Whether the child's family has an understanding of the child's needs and capabilities;
- (21) Whether the child's family perceives the child as being "different";
- (22) The child's family's psychological attachment to the child;
- (23) Whether the child's family problems relating to the safety of their home are sufficiently resolved;
- (24) Whether the obstacles to getting assistance are minimal, such as, whether telephone, transportation, and carfare are available;
- (25) Whether a competent person knows the child's family well enough to have sufficient contact and knowledge to recognize both immediate and pending problems;
- (26) Whether the competent person in paragraph (25) can and will intervene and help, as well as, report when a problem is recognized;
- (27) Whether there is available a social support system consisting of an extended family and friends; and
- (28) Whether there are other professionals, agencies, or relatives, who have provided evidence that the child's family home is safe.

The court shall consider the likelihood that compliance with the guidelines will continue in the future and the likelihood that the court will receive timely notice of any change in such compliance.

"Harm" to a child's physical or psychological health or welfare occurs in:

- (1) Any case where the child exhibits evidence of injury including, but not limited to:
 - (A) Substantial or multiple skin bruising or any other internal bleeding,
 - (B) Any injury to skin causing substantial bleeding,
 - (C) Malnutrition,
 - (D) Failure to thrive,

- (E) Burn or burns,
- (F) Poisoning,
- (G) Fracture of any bone,
- (H) Subdural hematoma,
- (I) Soft tissue swelling,
- (J) Extreme pain,
- (K) Extreme mental distress,
- (L) Gross degradation, or
- (M) Death, and

such injury is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or circumstances indicate that such condition or death may not be the product of an accidental occurrence; or

- (2) Any case where the child has been the victim of sexual contact or conduct, including but not limited to rape, sodomy, molestation, or genital fondling, incest, prostitution, obscene or pornographic photographing, filming or depiction, or other similar forms of sexual exploitation; or
- (3) Any case where there exists injury to the psychological capacity of a child as is evidenced by an observable and substantial impairment in the child's ability to function; or
- (4) Any case where the child is not provided with adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision; or
- (5) Any case where the child is provided with dangerous, harmful, or detrimental drugs as defined by section 712-1240, however, this paragraph shall not apply to a child's family who provide such drugs to the child pursuant to the direction or prescription of a practitioner, as defined in section 712-1240.

"Imminent harm" means that there exists reasonable cause to believe that harm to the child's physical or psychological health or welfare will occur or reoccur within the next ninety days; provided that the finding of reasonable cause may be based in whole or in part upon hearsay evidence when direct testimony is unavailable or when it is demonstrably inconvenient to summon witnesses who will be able to testify to facts from personal knowledge.

"Party" means an authorized agency, the child, the child's family member or members who are required to be summoned pursuant to section -32(a), any other member of the child's family, or any other person who is alleged in the petition filed under this chapter or who is subsequently determined at any child protective proceedings to be encouraging, causing, or contributing to the acts or conditions which bring the child within this chapter, and who has been duly served with a summons and a copy of the petition filed under this chapter.

"Police officer" means a person employed by any county in this State to enforce the laws and ordinances for preserving the peace, safety, and good order of the community.

"Protective custody" means the legal status of a child whose physical custody is retained by a police officer under this chapter in order to protect such child from imminent harm.

"Review hearing" means any subsequent hearing to the disposition hearing wherein the court shall review existing orders of disposition and specifically determine the issue of the parties' compliance with the terms and conditions of the service plan by court order and enter such further orders of disposition as are deemed to be in the best interests of the child.

"Service plan" means a specific written plan, prepared by the department or other appropriate authorized agency and presented to such members of the child's family as the department or other appropriate authorized agency deems to be necessary to the success of the plan, including but not limited to, the member or members of the child's family who have legal custody of the child at the time that a petition is filed under this chapter. The service plan should set forth:

- (1) Whether placement of the child is required and the steps that will be necessary to facilitate the return of the child to the child's family, if the proposed placement of the child is in foster care;
- (2) The steps that will be necessary for the child to remain with the child's family;
- (3) The steps that will be necessary to terminate the department's or other appropriate authorized agency's intervention into the family and eliminate, if possible, the necessity for the filing of a petition with the court under this chapter;
- (4) The service plan should also include, but not necessarily be limited to:
 - (A) The specific services or treatment that the parties will be provided and what specific actions the parties must take or specific responsibilities that the parties must assume; the time frames during which such services will be provided and such actions must be completed and responsibilities must be assumed;
 - (B) The specific consequences that may be reasonably anticipated to result from the parties' compliance or noncompliance with the terms and conditions set forth in the service plan; and
 - (C) Such other terms and conditions as the department or other appropriate authorized agency deems to be appropriate under the circumstances.

After each term and condition of the service plan has been thoroughly explained to and is understood by each member of the child's family which the department or other appropriate authorized agency deems to be necessary to the success of the service plan, the service plan shall be agreed to and signed by each such family member. Thereafter, a copy of the service plan shall be provided to each family member who signed the service plan.

If a member of a child's family whom the department or other appropriate authorized agency deems to be necessary to the success of the service plan cannot or does not understand or agree to the terms and conditions set forth in the service plan, the department shall proceed pursuant to section -21(a).

"Service plan by court order" means:

- (1) A service plan prepared by the department or other appropriate authorized agency which is presented to the court and to each of the parties to a child protective proceeding and, after:
 - (A) Each term and condition of the service plan has been thoroughly explained to and is understood by each party or a party's guardian ad litem;
 - (B) It has been signed by each party including the child, if appropriate, and their respective counsel, if any, and guardian ad litem, if any; and
 - (C) Each term and condition of the service plan has been reviewed by the court; is, thereupon, ordered by the court to constitute the service plan for the child if the court deems such terms and conditions to be in the child's best interests; or
- (2) If a party or the court cannot or does not accept the terms and conditions set forth in the service plan, the court shall set a hearing on the service plan and after such hearing as the court deems to be appropriate, such terms and conditions shall be ordered by the court to constitute a service plan by court order for the child as the court deems to be in the best interests of the child.

A copy of the service plan by court order shall be entered into evidence and made a part of the record of the case.

"Temporary foster custody" means a legal status created under this chapter with or without order of the court whereby the department may assume the duties and rights of a foster custodian over a child.

"Threatened harm" means any reasonably foreseeable substantial risk of harm to a child with due consideration being given to the age of the child and to the guidelines for determining whether the child's family is willing and able to exercise or to provide the child with a safe home, as defined in this section.

PART II. JURISDICTION

§ -11 **Jurisdiction.** The court shall have exclusive original jurisdiction in child protective proceedings concerning any child who was or is found within the circuit at the time such facts and circumstances occurred, are discovered, or are reported to the department, which facts and circumstances constitute the basis for the finding that the child is a child whose physical or psychological health or welfare is harmed, or is subject to imminent harm or threatened harm by the acts or omissions of the child's family.

§ -12 **Retention of jurisdiction.** Except as otherwise provided in this chapter, jurisdiction invoked by the court under this chapter may be retained by it, for the purposes of this chapter, after the child becomes eighteen years of age until the full term for which any order entered expires or until the child becomes nineteen years of age.

§ -13 **Venue.** Child protective proceedings under this chapter may be originated in the county in which the child is found or resides at the time of the filing of the petition, or in the county in which a member of the child's family having legal custody of the child resides or is domiciled at the time of the filing of the petition.

PART III. PRELIMINARY PROCEDURE PRIOR TO FILING OF THE PETITION

§ -21 Authorization for department to act. (a) Upon receiving a report that a child has been harmed, is subject to imminent harm, or is threatened harm, the department shall cause such investigation to be made in accordance with this chapter as it deems to be appropriate. In conducting the investigation the department may enlist the cooperation of police officers for phases of the investigation for which they are better equipped. Upon satisfying itself as to the course of action which should be pursued to best accord with the purpose of this chapter, the department shall:

- (1) Resolve the matter in such informal fashion, as is appropriate under the circumstances; or
- (2) Seek to enter into a service plan, without filing a petition in court, with such members of the child's family as the department deems to be necessary to the success of the service plan, including but not limited to, the member or members of the child's family who have legal custody of the child. The service plan may include an agreement with the child's family to voluntarily place the child in the foster custody of the department or other authorized agency, or to place the child and the necessary members of the child's family under the family supervision of the department or other authorized agency; provided that if a service plan is not successfully completed within one year, a petition shall be filed in court under this chapter; or
- (3) Assume temporary foster custody of the child pursuant to section - 24(a) and file a petition in the court under this chapter within two working days, excluding Saturdays, Sundays, and holidays, of the department's assumption of temporary foster custody of the child; or
- (4) File a petition with the court under this chapter.

§ -22 Protective custody by police officer without court order. (a) A police officer shall assume protective custody of a child without a court order and without the consent of the child's family regardless of whether the child's family is absent, if in the discretion of such police officer, the child is in such circumstance or condition that the child's continuing in the custody or care of the child's family presents a situation of imminent harm to the child.

(b) A police officer who assumes protective custody of a child immediately shall complete transfer of protective custody to the department by presenting physical custody of the child to the department unless the child is or presently will be admitted to a hospital or similar institution, in which case the police officer immediately shall complete transfer of protective custody to the department by so informing the department and receiving an acknowledgment from the hospital or similar institution that it has been informed that the child is under the temporary foster custody of the department.

(c) Upon the completion of the transfer of protective custody of a child by a police officer to the department, the department immediately shall assume temporary foster custody of the child.

§ -23 Authorization for color photographs, x-rays, and radiological examination. (a) Any child health professional or paraprofessional, physician licensed or authorized to practice medicine in this State, registered nurse or licensed practical nurse, hospital or similar institution's personnel engaged in the admission, examination, care, or treatment of patients, medical examiner, coroner, social worker, or police officer who has before the person a child whom the person reasonably believes has been harmed shall make every good faith effort to take or cause to be taken color photographs of the areas of trauma visible on the child. If medically indicated, such person may take or cause to be taken x-rays of the child or cause a radiological examination to be performed on the child.

(b) Color photographs, x-rays, or radiological examination reports which show evidence of harm, imminent harm, or threatened harm to a child immediately shall be forwarded to the department.

§ -24 Temporary foster custody without court order. (a) When the department receives physical custody of a child from the police pursuant to section -22(b), the department may assume temporary foster custody of a child without an order of the court and without the consent of the child's family regardless of whether the child's family is absent, if in the discretion of the department the child is in such circumstance or condition that the child's continuing in the custody or care of the child's family presents a situation of imminent harm to the child; provided that the department shall proceed in such a reasonable manner as does not jeopardize the personal safety of department personnel or any other person.

(b) Upon assuming temporary foster custody of a child under this chapter, the department promptly shall make every reasonable effort to inform a member of the child's family who has legal custody of the child of the actions taken concerning the child; provided that the department may withhold such information from the child's family concerning the child as, in its discretion, is deemed to be in the best interests of the child.

(c) Upon assuming temporary foster custody of a child under this chapter, the department shall place the child in emergency foster care, unless the child is admitted to a hospital or similar institution, while it conducts an appropriate investigation.

(d) Any physician licensed or authorized to practice medicine in this State presented with a child who is under the temporary foster custody of the department shall perform such an examination of the child, with or without the consent of the child's family, as is required in order to determine the nature and extent of any harm, imminent harm, or threatened harm to the child.

(e) Within two working days, excluding Saturdays, Sundays, or holidays, from the date of its assumption of temporary foster custody, the department shall:

- (1) Relinquish its temporary foster custody and return the child to the child's family and proceed pursuant to section -21(a)(1), (2), or (4);
- (2) Continue its assumption of temporary foster custody of the child with the child being voluntarily placed in foster care by the child's family and proceed pursuant to section -21(a)(2) or (4); or
- (3) Continue its assumption of temporary foster custody of the child and proceed pursuant to section -21(a)(3).

PART IV. PROCEDURE UPON FILING OF THE PETITION

§ -31 **Petition.** A petition invoking the jurisdiction of the court under this chapter shall be filed in the manner provided in this section:

- (1) Petitions shall be entitled "In the Interest of _____, a child under the age of eighteen years" and shall be verified and shall set forth with specificity:
 - (A) The facts which bring the child within this chapter;
 - (B) The name, birthdate, sex, and residence address of the child;
 - (C) The names and last known residence addresses of the member or members of the child's family required to be notified pursuant to section -32(a), and other persons who are to be made parties to the child protective proceedings at the time of the filing of the petition pursuant to section -32(a).
 - (D) Whether the child is under the temporary foster custody of the department in emergency foster care, and, if so, the type and nature of the emergency foster care, the circumstances necessitating such care and the date the child was placed in such temporary foster custody.
 - (E) When any of the facts required by this section cannot be determined, the petition so shall state. The petition may be based on information and belief but in such case the petition shall state the basis of such information and belief.
- (2) The court may provide rules concerning the titles, filing, investigation, and the form and content of petitions and other pleadings and proceedings in cases under this chapter, or any other matter arising in child protective proceedings.

§ -32 **Summons.** (a) After a petition has been filed, the court shall issue a summons requiring a child's family member or members who have legal or physical custody of the child at the time of the filing of the petition to bring the child before the court at the temporary foster custody hearing or on the return date set forth in the summons. In addition, any legal, adjudicated, or presumed parent of the child, the natural mother of the child, the concerned natural father of the child as defined under section 578-2, other persons who are to be parties to the child protective proceedings at the time of the filing of the petition also shall be summoned, in the manner provided in this section. A summons may be issued requiring the appearance of any other person whose presence is required by the parties or any other person whose presence, in the discretion of the court, is necessary.

- (b) A certified copy of the petition shall be attached to each summons.
- (c) The summons shall notify the parties of their right to retain and be represented by counsel.
- (d) The court preliminarily shall review each petition under this chapter at the time of the filing of the petition, and if, in the discretion of the court, the child is in such circumstance or condition that the child's continuing in the custody or care of the child's family presents a situation of imminent harm to the child, the court

shall order that a police officer immediately take the child into protective custody and that the department immediately assume temporary foster custody.

§ -33 Service of summons; necessary witnesses, guardian ad litem-counsel. (a) Service of summons shall be made personally by delivery of an attested copy thereof to the person or legal entity summoned; provided that if the court is satisfied that it is impracticable to serve personally the summons provided for in the preceding section, the court may order service by registered mail addressed to the last known address, or by publication thereof, or both. Service shall be effected at least twenty-four hours prior to the time fixed in the summons for a temporary foster custody hearing or at least forty-eight hours prior to the time fixed in the summons for a return date, an adjudicatory, a disposition, a service plan, or a review hearing unless such party otherwise was ordered by the court to appear at such hearing. When publication is used the summons shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county. The newspaper shall be designated by the court in the order for publication of the summons, and such publication shall have the same force and effect as though such person had been personally served with the summons. Service of summons required under this chapter shall be made by the sheriff or other person appointed by the court, and a return must be made on the summons showing to whom, the date, and time service was made. The court may summon the appearance of any person whose presence is deemed necessary as a witness.

(b) If any person summoned as provided in this section, without reasonable cause, shall fail to appear, the court may proceed in such person's absence or such person may be proceeded against for contempt of court pursuant to section -75. Where the summons cannot be served, or where a person served fails to obey the summons, or in any case when it shall be made to appear to the court that the service will be ineffectual, or that the best interests of the child require that the child be brought forthwith into the custody of the court, the court may issue a warrant for such person or child, as well as, issuing an order pursuant to section -32(d).

(c) The court shall appoint a guardian ad litem for the child to serve throughout the pendency of the child protective proceedings under this chapter. The court may appoint additional counsel for the child pursuant to subsection (e) or independent counsel for any other party if such party is an indigent, the child protective proceedings are complex, counsel is necessary to protect the party's interests adequately, and the interests are not represented adequately by another party who is represented by counsel.

(d) In any case, where the court has reason to believe that a party is not fully competent to comprehend the nature of the child protective proceedings, after such hearing as the court deems to be appropriate, the court may appoint a guardian ad litem to represent the interests of that party.

(e) A guardian ad litem appointed pursuant to subsection (c) shall report to the court in writing at six month intervals, or as is otherwise ordered by the court, regarding such guardian ad litem's activities on behalf of the child and recommendations concerning the manner in which the court should proceed in the best interests of the child; provided that such guardian ad litem shall also inform the court of the child's perceived interests if they differ from those being advocated by

the child's guardian ad litem. If the child and the child's guardian ad litem are not in agreement, the court shall evaluate the necessity for appointing special counsel for the child to serve as the child's legal advocate concerning such issues and during such proceedings as the court deems to be in the best interests of the child.

(f) A guardian ad litem or counsel appointed pursuant to this section for the child or other party shall be paid for by the court unless the party for whom counsel is appointed has an independent estate sufficient to pay such costs. The court may order the appropriate parties to pay reimbursement to the court for the costs and fees of the guardian ad litem and other counsel appointed for the child.

PART V. BURDEN OF PROOF

§ -41 Burden of proof. (a) In an adjudicatory hearing, any determination that the child has been harmed or is subject to threatened harm shall be based on a preponderance of the evidence; and, except as otherwise provided under this chapter, only competent, material, and relevant evidence may be admitted; provided that such competent, material, and relevant evidence which is contained in a written report, study, or examination, shall be admissible, and may be relied upon to the extent of its probative value; provided further that the maker of the written report, study, or examination may be subject to direct and cross-examination upon demand and when the maker reasonably is available.

(b) In a disposition, a service plan, a review, or any other hearing in a child protective proceeding, other than a temporary foster custody hearing, any determination shall be based on a preponderance of the evidence; and any relevant evidence shall be admitted, including such evidence as is contained in a written report, study, or examination and may be relied upon to the extent of its probative value; provided that the maker of the written report, study, or examination may be subject to direct and cross-examination upon demand and when the maker reasonably is available.

(c) Within a reasonable period of time prior to each hearing in a child protective proceeding, the department or other appropriate authorized agency shall submit a written report to the court with copies to all parties or their counsel or guardian ad litem setting forth the then-current situation of the child and the recommendations as to the orders or further orders as are deemed to be in the best interests of the child and the basis for each of such recommendations, including but not limited to, a consideration of the guidelines for determining whether the child's family is willing and able to exercise or provide the child with a safe home set forth in section -2, if the child's placement may be in issue at such hearing.

(d) A social worker employed by the department in the area of child protective services shall be presumed to be qualified to testify as an expert in the area of child protective services.

§ -42 Evidence may be inadmissible in other actions or proceedings and testimony by a child. (a) Any testimony by or other evidence produced by a party in a child protective proceeding under this chapter may be ordered by the court to be inadmissible as evidence in any other civil or criminal action or proceeding if the court deems such an order to be in the best interests of the child.

(b) The court may direct that a child testify under such circumstances as the court deems to be in the best interests of the child and the furtherance of justice, which may include or be limited to, an interview on the record in chambers with only those parties present as the court deems to be in the best interests of the child.

(c) Any statement made by the child to any person relating to any allegation of harm, imminent harm, or threatened harm shall be admissible in evidence.

PART VI.¹ PRELIMINARY FINDINGS, HEARINGS AND ORDERS

§ -51 Required findings concerning notice prior to a hearing in a child protective proceeding. No hearing may commence under this chapter unless the court enters a finding:

- (1) That each of the parties is present at the hearing and has been served with a copy of the petition; or
- (2) If the member or members of the child's family required to be notified pursuant to section -32(a) are not present, that every reasonable effort has been made to effect service under this chapter and that it would be detrimental to the child to postpone the proceedings until service can be effectuated.

If a member or members of the child's family required to be notified pursuant to section -32 are not present, the court may proceed to hear any child protective proceedings under this chapter only if the child is represented by a guardian ad litem or counsel. If the member or members of the child's family required to be notified pursuant to section -32(a) thereafter move the court that a resulting order of a temporary foster custody, an adjudication, a disposition, or a review hearing be vacated and ask for a rehearing, the court may grant the motion on an affidavit of such relationship or responsibility, unless the court finds that the party refused or failed to appear at the temporary foster custody, an adjudicatory, a disposition, or a review hearing without good cause, or that it would not otherwise be in the best interests of the child, in which case the court may deny the motion.

§ -52 Order of protection. (a) After a petition has been filed with the court under this chapter the court, upon such hearing as the court deems to be appropriate, may make an order of protection in assistance or as a condition of any other order made under this part. The order of protection may set forth reasonable conditions to be complied with for a specified time by any party other than an authorized agency. Such an order may require the party:

- (1) To stay away from the child's family home, or any party or person; or
- (2) To abstain from offensive conduct against any party or person.

(b) A petition filed with the court under this chapter also may serve as a petition for an order for protection as provided by section 586-3.

§ -53 Temporary foster custody hearing. (a) In any case where the department has assumed temporary foster custody of a child with or without an order of the court, the court shall hold a temporary foster custody hearing, within two working days, excluding Saturdays, Sundays, and holidays, after the filing of a petition to determine whether the best interests of the child require further protection pending an adjudicatory hearing.

(b) After reviewing a petition the court, on its own motion and without a temporary foster custody hearing, may order that the child immediately be released from temporary foster custody and returned to the child's family under such terms and conditions as are deemed by the court to be in the best interests of the child.

(c) The temporary foster custody hearing shall be continued upon the court's own motion or upon the motion of a party if the court determines that it requires further investigation, information, a physical examination, or a psychiatric or a psychological evaluation of a party prior to rendering a determination as to whether the child should remain in temporary foster custody pending an adjudicatory hearing.

(d) At the temporary foster custody hearing, any relevant evidence, whatsoever, shall be admitted, including such evidence as is contained in a written report, study, or examination and may be relied upon to the extent of its probative value; provided that the maker of the written report, study, or examination may be subject to direct and cross-examination upon demand and when the maker reasonably is available.

(e) The court shall consider the guidelines for determining whether the child's family is willing and able to exercise or to provide the child with a safe home set forth in section -2 prior to rendering a determination in the temporary foster custody hearing.

(f) After a temporary foster custody hearing, if the court determines that there is reasonable cause to believe that continued placement in emergency foster care is necessary to protect the child from imminent harm, it shall order that the child continue in the temporary foster custody of the department.

(g) After a temporary foster custody hearing, if the court determines that continued placement in emergency foster care is not necessary to protect the child from imminent harm, it may order that the child immediately be released from temporary foster custody and returned to the child's family under such terms and conditions as are deemed by the court to be in the best interests of the child pending an adjudicatory hearing.

(h) Any party may move for, or the court on its own motion may order, a temporary foster custody hearing or rehearing at any time after the petition is filed under this chapter in order to determine whether the best interests of the child require that the child be placed in temporary foster custody pending an adjudicatory hearing or a final order of disposition.

PART VII.¹ ADJUDICATORY HEARING AND ORDERS

§ -61 Continuance in contemplation of dismissal. (a) Prior to or upon an adjudicatory hearing, the court, upon a motion by the department with the consent of the other parties or upon its own motion with the consent of the parties, may order that the proceeding be continued in contemplation of dismissal. The court may make such order only after the court has informed the parties of the provisions of this section, and is satisfied that each of the parties and guardian ad litem understand the effect of such provisions.

(b) A continuance in contemplation of dismissal shall continue the child protective proceedings for a period not to exceed one year with a view to ultimate

dismissal of the petition in furtherance of justice. Upon the consent of the parties, the court may issue an order extending such period for such time and upon such conditions as may be agreeable to the parties.

(c) Such order may be based upon a report by an authorized agency or other evidence deemed by the court to constitute an adequate basis for the court's invoking its jurisdiction which report or evidence may be admitted into evidence subject to reservation by the parties of their right to cross-examination, and may include terms and conditions agreeable to the parties and to the court; provided that such terms and conditions shall include but not necessarily be limited to an appropriate service plan and a provision that the child and the child's family be under family supervision of the department or other authorized agency during the continuance period. The authorized agency shall report to the court in such manner and at such times as the court may direct during the duration of the order.

(d) Upon the written motion of a party, or upon the court's own motion, made at any time before the order expires, the court may restore the matter to the calendar, if the court finds after such hearing as the court deems to be appropriate that the child's family has failed to comply with the terms and conditions of the order including but not limited to the service plan. In that event, circumstances of harm or threatened harm to the child shall be deemed to exist, and the court shall proceed to a disposition hearing under this chapter and, at the conclusion of such hearing, may enter a final order of disposition with the same force and effect as if an adjudicatory hearing had been held and the child had been found to have been harmed or subject to threatened harm.

(e) If the proceedings are not restored to the calendar, at the expiration of the continuance period, the petition shall be dismissed by the court without a hearing or order in furtherance of justice.

§ -62 Adjudicatory hearing. (a) When a petition has been filed, the court shall set a return date to be held within fifteen days of (1) the filing of the petition or (2) the date of the issuance of a verbal decision in a temporary foster custody hearing.

(b) On the return date, the parties may stipulate to the entry of such orders as the court deems to be in the best interests of the child or the court may set the case for an adjudicatory hearing as soon as is practicable; provided that if the child is to remain in emergency foster care subsequent to the return date, the court shall set the case for an adjudicatory hearing within ten days of the return date unless the court deems a later date for an adjudicatory hearing to be in the best interests of the child, or such later date is agreed to by all parties and the child's guardian ad litem and is approved by the court.

(c) The court shall hear child protective proceedings under this chapter at a hearing separate from those for adults and without a jury. The hearing shall be conducted in an informal manner and may be adjourned from time to time. The general public shall be excluded, and only such persons shall be admitted as are found by the court to have a direct interest in the case. The child may be excluded from the hearing at any time at the discretion of the court. If a party is without counsel, or a guardian ad litem, the court shall inform the party of the right to be represented by counsel and to appeal from any order of the court.

(d) At the conclusion of an adjudicatory hearing and after it has made findings required before a disposition hearing may commence, the court may adjourn the proceedings to make or order an inquiry into the surroundings, conditions, and capacities of the parties involved in the proceedings.

§ -63 Sustaining or dismissing petition and interim orders. (a) If facts sufficient to sustain the petition are established in accord with this chapter, or if all parties consent, the court, subject to the provisions of subsection (c), shall enter an order finding that the child has been harmed or subjected to threatened harm and shall state the grounds for the finding. Upon the completion of the adjudicatory hearing, the disposition hearing may commence immediately after the required findings are made or the court may set the disposition hearing for such time as it deems appropriate.

(b) If facts sufficient to sustain the petition under this chapter are not established, the court shall dismiss the petition and shall state the grounds for dismissal.

(c) If the court sustains the petition and does not commence immediately the disposition hearing, it shall determine, based upon the facts adduced during the adjudicatory hearing and any other additional facts presented to it, whether a temporary foster custody order should be continued or should be entered pending a final order of disposition. The court shall consider the guidelines for determining whether the child's family is willing and able to exercise or to provide the child with a safe home set forth in section -2 prior to rendering a determination.

(d) If at any stage of the child protective proceedings, the court determines that the child's family will not or cannot provide the child with a safe home, the court shall either continue or enter a temporary foster custody order pending a final order of disposition; provided that the court first shall give due consideration to ordering the removal from the child's family home of the perpetrator of harm or threatened harm to the child prior to continuing or placing the child in emergency foster care. The child's family shall have the burden of establishing by a preponderance of the evidence that it is not in the best interests of the child that the perpetrator be removed from the family's home by order of the court.

(e) If siblings or psychologically bonded children are removed from their family home, the court may order that every reasonable effort be made to place them together.

(f) Pending a final order of disposition, the court shall make such orders regarding visitation and the provision of services to the child and the child's family and their acceptance and cooperation with such services as the court deems to be appropriate and consistent with the best interests of the child.

(g) Orders verbally stated by the court on the record in a proceeding under this chapter shall have full force and effect upon the date of the hearing until further order of the court; provided that all verbal orders shall be reduced into writing as soon as convenient.

PART VIII.¹ DISPOSITION AND REVIEW HEARINGS AND ORDERS

§ -71 **Disposition hearing.** (a) The court may consider any information relevant to a disposition which is in the best interests of the child; provided that the court shall determine initially whether the child's family home is a safe home. The court shall consider fully the guidelines for determining whether the child's family is willing and able to exercise or to provide the child with a safe home set forth in section -2 in rendering such a determination.

(b) If the court determines that the child's family home is a safe home, the court shall:

- (1) Place the child and the child's family under the family supervision of the department or other appropriate authorized agency, return the child to the child's family home, and enter such further orders, including but not limited to, restrictions upon the rights and duties of the department or other appropriate authorized agency as the court deems to be in the best interests of the child; or

- (2) Terminate jurisdiction.

(c) If the court determines that the child's family home is not a safe home, the court shall vest foster custody of the child in an authorized agency and enter such further orders as the court deems to be in the best interests of the child.

(d) If the court does not terminate the court's jurisdiction, the court shall order in every case that the department or other authorized agency prepare a written service plan and submit copies to the court and to each of the parties within thirty days from the date of the hearing unless the court deems an extension of time for submittal of the service plan to be in the best interests of the child.

(e) The court shall set a hearing concerning the terms and conditions set forth in the service plan unless the court is convinced that each of the parties have signed and fully understand and accept the service plan, in which event, the court may order that the service plan shall constitute the service plan by court order and that the service plan shall be entered into evidence without a hearing.

(f) The court may order that any party participate in, complete, be liable for, and make every good faith effort to arrange payment for such services or treatment as are authorized by law and are deemed to be in the best interests of the child.

(g) The court may order that a child shall be examined by a physician, surgeon, psychiatrist, or psychologist, and it may order treatment by them, of a child as is authorized by law, and is deemed to be in the best interests of the child. For either the examination or treatment, the court may place the child in a hospital or other suitable facility.

(h) The court may order reasonable supervised or unsupervised visitation rights to the child's family and to any person interested in the welfare of the child and that such visitation shall be in the discretion of an authorized agency, unless it is shown that such rights of visitation may be detrimental to the best interests of the child.

§ -72 **Review hearings.** (a) Except for good cause shown, the court shall set each case for review hearing not later than six months after the date that a

service plan is ordered by the court and thereafter, the court shall set subsequent review hearings at intervals of no longer than six months, until the court's jurisdiction has been terminated.

(b) Notice of review hearings shall be served upon the parties and upon the present foster parent or parents, each of whom shall be a party entitled to participate in the proceedings.

(c) The department or other appropriate authorized agency shall make every reasonable effort to submit a written report, pursuant to section -41(c), or a written explanation regarding why the report is not being submitted timely to the court with copies to the parties or their counsel or guardian ad litem at least fifteen days before the date set for each review hearing.

(d) The report pursuant to subsection (c) specifically shall:

- (1) Evaluate as to whether the parties have complied with, performed, and completed, if possible, each and every term and condition of the service plan which was ordered for the child;
- (2) Recommend as to whether the court should enforce the consequences set forth in the service plan pertaining to compliance or noncompliance by the parties with the terms and conditions of the service plan;
- (3) Recommend as to whether the court should order revisions to the existing service plan, and if so, set forth the proposed revisions and the basis for recommending such revisions; and
- (4) Set forth recommendations as to such further orders as are deemed to be appropriate and state the basis for recommending that such orders be entered.

(e) Upon each review hearing the court shall:

- (1) Determine whether the parties have complied with, performed and completed, if possible, each and every term and condition of the service plan which was previously court ordered;
- (2) Enforce the consequences set forth in the service plan pertaining to compliance or noncompliance by the parties with any of the terms and conditions of the service plan;
- (3) Order such revisions to the existing service plan as the court, upon such hearing as the court deems to be appropriate, determines to be in the best interests of the child; and
- (4) Enter such further orders as the court deems to be in the best interests of the child.

(f) The court shall consider the need for permanency planning for the child at each review hearing and at the twelve-month review hearing, if the child is not returned to the child's family, the court shall proceed to enter orders consistent with the following:

- (1) If the child was under the age of three at the time of placement in foster care, the court shall order permanency planning be commenced for the child if the court determines that the child's family has failed to comply substantially with the terms and conditions of the service plan and that both the recommendations of the child's guardian ad litem and of the

department or other authorized agency support the initiation of permanency planning; or

- (2) If a child was over the age of three at the time of placement, the court shall order permanency planning if the court determines that the child's family has failed to comply substantially with the terms and conditions of the service plan and such parties have not provided the court with an adequate excuse or explanation for such noncompliance and that both the recommendations of the child's guardian ad litem and the department or other appropriate authorized agency support the initiation of permanency planning; or
- (3) If siblings or psychologically bonded children are placed together in foster care, the court shall enter orders concerning permanency planning for each of such children consistent with paragraph (1) or (2), depending upon the age of the youngest child at the time of the children's placement in foster care, unless it is not in each of the children's best interests to proceed in such manner; and
- (4) Enter such further orders as the court deems to be in the best interests of the child.

(g)¹ The court shall order permanency planning for the child at the eighteen-month review hearing, if the child cannot be returned to the child's family home at that time.

(h)¹ The court may order permanency planning for the child as follows:

- (1) That a petition for termination of parental rights pursuant to section 571-61 be commenced as soon as practicable and that such petition be consolidated with the child protective proceedings;
- (2) That a petition for guardianship pursuant to section 560:5-201 be commenced as soon as practicable, and that such petition be consolidated with the child protective proceedings;
- (3) That if the child is sixteen years of age, and is of sufficient physical and psychological maturity, the court may order that the child be deemed to be emancipated and shall be regarded as though the child were of legal age and shall have all the rights, duties, privileges, and responsibilities provided by the civil law to a person who has reached the age of majority under civil law; provided that:
 - (A) Nothing in this section shall be deemed to confer upon such person the right to vote in any federal, state, or county election or the right to purchase, possess, or sell alcoholic beverages; and
 - (B) Nothing in this section shall change the status of such persons as a child in connection with any criminal law, nor affect the exclusive original jurisdiction of the family court over such persons under section 571-11(1); or
- (4) That the child shall remain in long-term foster care until the age of majority pursuant to a long-term foster care contract unless the child is emancipated prior thereto pursuant to paragraph (3) and that such status shall not be subject to modification or to revocation except upon a showing of extraordinary circumstances to the court.

§ -73 Modification or revocation. (a) A motion for revocation or modification of an order issued under this chapter may be filed by a party; provided that no motion may be filed under this section within three months of a prior hearing on custody, care, or placement of the child, except for good cause shown or as is otherwise provided under this chapter.

(b) If the motion filed pursuant to subsection (a) alleges that the best interests of the child are no longer served by an order issued under this chapter or that an authorized agency has failed to provide adequate care for the child, the court shall hold a hearing on the motion.

(c) At a hearing to consider the motion filed pursuant to subsection (a), the court may dismiss the motion or the court may revoke or modify the order as required by the best interests of the child.

(d) An authorized agency may petition the court by motion at any time to vacate any order placing a child in its foster custody or under its family supervision.

§ -74 Payment for service or treatment provided to a party or for a child's care, support, or treatment. Whenever a service or treatment is provided to a party, or whenever care, support, or treatment of a child is provided under this chapter, after due notice to the persons or legal entities legally obligated to pay for such service, treatment, care, or support of the child, and after a hearing, the court may order that such a legally obligated person shall pay in such a manner as the court may direct a reasonable sum that will cover in whole or in part the cost of the service or treatment provided to a party, or the cost of the care, support, or treatment provided for the child. The provisions of section 571-52 and all other remedies available under the law shall be applicable to enforce such orders.

§ -75 Failure to comply with terms or conditions of an order of the court. If a party, other than an authorized agency, fails to comply with the terms and conditions of an order issued under this chapter and if, after a hearing, the court is satisfied by the appropriate proof that such party did so wilfully and without just cause, the court may apply the provisions of section 710-1077 and all other provisions available under the law.

§ -76 Appeal. An interested party aggrieved by any order or decree of the court may appeal as provided by section 571-54.

Part IX.¹ MISCELLANEOUS

§ -81 Court records. The court shall keep a record of all child protective proceedings under this chapter. The written reports, photographs, x-rays, or other information of any nature which are submitted to the court may be made available to parties and to other persons only upon an order of the court showing that such access is in the best interests of the child or serves some other legitimate purpose. Any party or person receiving records shall not disclose any information included in the records to third persons without a prior court order.

§ -82 Fiscal responsibility. The court, the department, or other authorized agency shall provide only the care, service, treatment, or support, or the payment for care, service, treatment, or support, as is set forth in the budget of the court, the department, or authorized agency and is authorized by law.

§ -83 **Short title.** This chapter shall be known and cited as the "Child Protective Act".

§ -84 **Cooperation.** Every public official or department shall render all assistance and cooperation within such person's or its jurisdictional power which may further the purpose and objectives of this chapter. The department and the court may seek the cooperation of organizations whose objective is to protect or aid children and family life."

SECTION 2. Section 571-11, Hawaii Revised Statutes, is amended to read:

"§571-11 **Jurisdiction; children.** Except as otherwise provided in this chapter, the court shall have exclusive original jurisdiction in proceedings:

- (1) Concerning any person who is alleged to have committed an act prior to achieving eighteen years of age which would constitute a violation or attempted violation of any federal, state, or local law or municipal ordinance. Regardless of where the violation occurred, jurisdiction may be taken by the court of the circuit where the person resides, is living, or is found, or in which the offense is alleged to have occurred.
- (2) Concerning any child living or found within the circuit:
 - [(A)] (A) Who is neglected as to proper or necessary support, or as to medical or other care necessary for the child's well-being, or who is abandoned by the child's parent or other custodian; or
 - (B) Who is subjected to physical or emotional deprivation or abuse as a result of the failure of any person or agency to exercise that degree of care for which the person or agency is legally responsible; or
 - [(C)] (A) Who is neglected as to or deprived of educational services because of the failure of any person or agency to exercise that degree of care for which it is legally responsible[; or];
 - [(D)] (B) Who is beyond the control of the child's parent or other custodian or whose behavior is injurious to the child's own or others' welfare; [or
 - (E)] (C) Who is neither attending school nor receiving educational services required by law whether through the child's own misbehavior or nonattendance or otherwise; or
 - [(F)] (D) Who is in violation of curfew.
- (3) To determine the custody of any child or appoint a guardian of the person of any child.
- (4) For the adoption of a person under chapter 578.
- (5) For the termination of parental rights under sections 571-61 to 571-63.
- (6) For judicial consent to the marriage, employment, or enlistment of a child, when such consent is required by law.
- (7) For the treatment or commitment of a mentally defective, mentally retarded, or mentally ill child.
- (8) Under the Interstate Compact on Juveniles under chapter 582.
- (9) For the protection of any child under chapter ."

SECTION 3. Section 571-54, Hawaii Revised Statutes, is amended to read as follows:

“§571-54 Appeal. An interested party aggrieved by any order or decree of the court may appeal to the supreme court for review of questions of law and fact upon the same terms and conditions as in other cases in the circuit court and review shall be governed by chapter 602, except as hereinafter provided. Where the decree or order affects the custody of a child or minor the appeal shall be heard at the earliest practicable time. In cases under section 571-11 the record on appeal shall be given a fictitious title, to safeguard against publication of the names of the children or minors involved.

The stay of enforcement of an order or decree, or the pendency of an appeal, shall not suspend the order or decree of the court regarding a child or minor or discharge the child or minor from the custody of the court or of the person, institution, or agency to whose care he has been committed, unless otherwise ordered by the family court, or by the supreme or intermediate appellate court after an appeal is taken. Pending final disposition of the case the family court, or the supreme or the intermediate appellate court after an appeal is taken, may make such order for temporary custody as is appropriate in the circumstances. If the supreme or the intermediate appellate court does not dismiss the proceedings and discharge the child or minor, it shall affirm or modify the order of the family court and remand the child or minor to the jurisdiction of the court for disposition not inconsistent with the supreme or the intermediate appellate court’s finding on the appeal.

An order or decree entered in a proceeding based upon section 571-11(1), (2), [or] (6), or (9) shall be subject to appeal to the supreme court only as follows:

Within ten days from the date of the entry of any such order or decree, any party directly affected thereby, including a parent or legal custodian of any child or minor involved, may petition the judge for a rehearing and reconsideration of the facts involved. The petition shall set forth the grounds on which a rehearing is requested and shall be sworn to by the petitioner. A copy thereof shall be served upon the attorney general, who shall represent the interests of the State at the rehearing and in connection with any subsequent appeal. As soon thereafter as may be practicable, the judge shall proceed with the rehearing of the case, affording to all parties concerned the full right of representation by counsel and presentation of relevant evidence. The findings of the judge upon the rehearing and his determination and disposition of the case thereafter, and any decision, judgment, order, or decree affecting the child and entered as a result of the rehearing shall be set forth in writing and signed by the judge. Any party deeming himself aggrieved by any such judgment, order, or decree, entered following a rehearing as in this section provided, shall have the right to appeal therefrom to the supreme court upon the same terms and conditions as in other cases in the circuit court and review shall be governed by chapter 602; provided that no such petition for rehearing shall operate as a stay of any such judgment, order, or decree unless the judge of the family court so orders; provided further that no informality or technical irregularity in the proceedings prior to the rehearing hereinabove provided for shall constitute grounds for the reversal of any such judgment, order, or decree by the appellate court.”

SECTION 4. Section 571-61, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Involuntary termination.

- (1) [the] The family courts may terminate the parental rights in respect to any child as to any legal parent:
 - (A) Who has deserted the child without affording means of identification for a period of at least ninety days;
 - (B) Who has voluntarily surrendered the care and custody of the child to another for a period of at least two years;
 - (C) Who, when the child is in the custody of another, has failed to communicate with the child when able to do so for a period of at least one year;
 - (D) Who, when the child is in the custody of another, has failed to provide for care and support of the child when able to do so for a period of at least one year;
 - (E) Whose child has been removed from the parent's physical custody pursuant to legally authorized judicial action under section [571-11(2)(A) or (B)] 571-11(9), and who is found to be unable to provide now and in the foreseeable future the care necessary for the well-being of the child;
 - (F) Who is found by the court to be mentally ill or mentally retarded and incapacitated from giving consent to the adoption of or from providing now and in the foreseeable future the care necessary for the well-being of the child;
 - (G) Who is found not to be the child's natural or adoptive father.
- (2) The family courts may terminate the parental rights in respect to any minor of any natural but not legal father who is an adjudicated, presumed or concerned father under [the provisions of]chapter 578 [relating to adoption], or who is named as the father on the child's birth certificate;
 - (A) Who falls within [subparagraphs] subparagraph (A), (B), (C), (D), (E), or (F) of paragraph (1) [above];
 - (B) Whose child is sought to be adopted by the child's stepfather and [said] the stepfather has lived with [said] the child and [said] the child's legal mother for a period of a least one year;
 - (C) Who has failed to file a petition for the adoption of [said] the child or whose petition for the adoption of [said] the child has been denied;
 - (D) Who is found to be an unfit or improper parent or to be financially or otherwise unable to give the child a proper home and education.
- (3) In respect to any proceedings under paragraphs (1) and (2) [herein], the authority to terminate parental rights may be exercised by the court only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born and the court has conducted a hearing of the petition. A copy of the petition, together with notice of the time and place of the hearing thereof, shall be personally served at least

twenty days prior to the hearing upon the parent whose rights are sought to be terminated. [In the event that] If personal service cannot be effected within the State, service of the notice may be made as provided in section 634-23 or 634-24.

- (4) The family courts may terminate the parental rights in respect to any child as to any natural father who is not the child's legal, adjudicated, presumed or concerned father under [the provisions of] chapter 578 [relating to adoption].

Such authority may be exercised under this chapter only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born, and the court has conducted a hearing of the petition.

If the mother of the child files with the petition an affidavit representing that the identity or whereabouts of the child's father is unknown to her or not ascertainable by her or that other good cause exists why notice cannot or should not be given to [said] the father, the court shall conduct a hearing to determine whether notice [must be given.] is required.

[In the event] If the court finds that good cause exists why notice cannot or should not be given to the child's father, and that [said] the father is neither the legal nor adjudicated nor presumed father of the child, nor has he demonstrated a reasonable degree of interest, concern, or responsibility as to the existence or welfare of the child, the court may enter an order authorizing the termination of [said] the father's parental rights and the subsequent adoption of [said] the child without notice to [said] the father."

SECTION 5. Section 350-1, Hawaii Revised Statutes, is amended to read as follows:

"§350-1 [[NEW]] Definitions. For the purposes of this chapter, unless the context specifically indicates otherwise:

- (1) "Child abuse and neglect" means physical injury, psychological abuse and neglect, sexual abuse, negligent treatment, or maltreatment of a child under eighteen years of age by a parent, legal guardian, or person responsible for that child's care under circumstances which indicate that the minor's health or welfare has been or is harmed or threatened with harm.
- (2) "Department" means the department of social services and housing.
- (3) "Harm" or "threatened with harm" means harm or threatened harm as defined in chapter .

- [(3)] (4) "Professional" means a person engaged in a specific occupation who examines, treats, attends, or otherwise provides specialized services to children.

- [(4)] (5) "Report" means the oral or written disclosure, to the department of social services and housing, that a minor is believed to have been

harm or threatened with harm by a parent, legal guardian, or person responsible for that child's care."

SECTION 6. The provisions of this Act are hereby declared to be severable and if any provision of this Act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this Act.

It is the intent of this Act not to jeopardize the receipt of any federal aid, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 4, 1983.)

Note

1. Redesignated to correct obvious error.

ACT 172

S.B. NO. 569

A Bill for an Act Relating to Penal Responsibility and Fitness to Proceed.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 704-404, Hawaii Revised Statutes, is amended as follows:

1. Subsection (3) is amended to read:

"(3) In such examination any method may be employed which is accepted by the medical profession for the examination of those alleged to be suffering from physical or mental disease, disorder, or defect, provided that each examiner shall form and render diagnoses and opinions upon the physical and mental condition of the defendant independently from the other examiners, and the examiners may, upon approval of the court, secure the services of clinical psychologists and other medical or paramedical specialists to assist in the examination and diagnosis."

2. Subsection (4) is amended to read:

"(4) The report of the examination shall include the following:

- (a) A description of the nature of the examination;
- (b) A diagnosis of the physical or mental condition of the defendant;
- (c) An opinion as to his capacity to understand the proceedings against him and to assist in his own defense;
- (d) An opinion as to the extent, if any, to which the capacity of the defendant to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was impaired at the time of the conduct alleged; [and]

- (e) When directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind which is required to establish an element of the offense charged [.] and
- (f) A statement that the diagnosis and opinion rendered were arrived at independently of the other examiners, unless there is a showing of a clear need for communication between or among the examiners for clarification. A description of the communication shall be included in the report."

3. Subsection (8) is amended to read:

"(8) [There shall be made accessible to the examiners all existing medical, social, and other pertinent records in the custody of public agencies notwithstanding any other statutes.] The court shall obtain all existing, medical, social, police and juvenile records, including those expunged, and other pertinent records in the custody of public agencies notwithstanding any other statutes, and make such records available for inspection by the examiners."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

ACT 173

S.B. NO. 631

A Bill for an Act Relating to Involuntary Civil Commitment Under Mental Health Law. Admissions for Nonemergency Treatment or Supervision.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 334-60, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Involuntary hospitalization:

- (1) Criteria. A person may be committed to a psychiatric facility for involuntary hospitalization if the court finds:
 - (A) That the person is mentally ill or suffering from substance abuse, and
 - (B) That he is imminently dangerous to himself or others [or to property], and
 - (C) That he is in need of care [and/or] or treatment, or both, and there is no suitable alternative available through existing facilities and programs which would be less restrictive than hospitalization.
- (2) Initiation of proceeding. Court-ordered commitment to a psychiatric facility may be initiated as follows:
 - (A) Any person may file a petition alleging that a person located in the county meets the criteria for commitment to a psychiatric facility. The petition shall be executed subject to the penalties of perjury but need not be sworn to before a notary public. The

attorney general, his deputy, special deputy, or appointee designated to present the case shall assist the petitioner to state the substance of the petition in plain and simple language. The petition may be accompanied by a certificate of a licensed physician who has examined the person within two days before submission of the petition, unless the person whose commitment is sought has refused to submit to medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set forth the signs and symptoms relied upon by the physician to determine the person is in need of care [and/or] or treatment, or both, and whether or not he is capable of realizing and making a rational decision with respect to his need for treatment. If the petitioner believes that further evaluation is necessary before commitment, the petitioner may request such further evaluation.

- (B) In the event the subject of the petition has been given an examination, evaluation, or treatment in a psychiatric facility within five days before submission of the petition, and hospitalization is recommended by the staff of the facility, the petition may be accompanied by the administrator's certificate in lieu of a physician's certificate.
- (3) Notice; waiver of notice; hearing on petition; waiver of hearing on petition.
 - (A) The court shall set a hearing on the petition and notice of the time and place of such hearing shall be served in accordance with, and to those persons specified in, a current order of commitment. If there is no current order of commitment, notice of the hearing shall be served personally on the subject of the petition and served personally or by certified or registered mail, return receipt requested, deliverable to the addressee only, on the subject's spouse, legal parents, adult children, and legal guardian, if one has been appointed. If the subject of the petition has no living spouse, legal parent, and adult children, or if none can be found, notice of the hearing shall be served on at least one of his closest adult relatives if any can be found. Notice of the hearing shall also be served on the public defender, attorney for the subject of the petition, or other court-appointed attorney as the case may be. If the subject of the petition is a minor, notice of the hearing shall also be served upon the person who has had the principal care and custody of the minor during the sixty days preceding the date of the petition if such person can be found within the State. Notice shall also be given to such other persons as the court may designate.
 - [B] (B) The notice shall include the following:
 - (i) The date, time, place of hearing, a clear statement of the purpose of the proceedings and of possible consequences to

the subject; and a statement of the legal standard upon which commitment is authorized;

- (ii) A copy of the petition;
 - (iii) A written notice, in plain and simple language, that the subject may waive such a hearing by voluntarily agreeing to hospitalization, or with the approval of the court, to some other form of treatment;
 - (iv) A filled-out form indicating such waiver;
 - (v) A written notice, in plain and simple language, that the subject or his guardian or representative may apply at any time for a hearing on the issue of the subject's need for hospitalization, if he has previously waived such a hearing;
 - (vi) Notice that the subject is entitled to the assistance of an attorney and that the public defender has been notified of these proceedings;
 - (vii) Notice that if the subject does not want to be represented by the public defender he may contact his own attorney[.];
 - (viii) Notice, if such be the case, that the petitioner intends to adduce evidence to show that the subject of the petition is an incapacitated or protected person, or both, under Article V of chapter 560, and whether or not appointment of a guardian of the person is sought at the hearing. If appointment of a guardian of the person is to be recommended, and a nominee is known at the time the petition is filed, the identity of the nominee shall be disclosed.
- (C) If the subject executes and files a waiver of the hearing, upon acceptance by the court following a court determination that the person understands his rights and is competent to waive them, the court shall order the subject to be committed to a facility that has agreed to admit the subject as an involuntary patient or, if he is at such a facility, that he be retained there.
- (4) Hearing on petition.
- (A) The court may adjourn or continue a hearing for failure to timely notify a spouse, guardian, relative, or other person determined by the court to be entitled to notice.
 - (B) The time and form of the procedure incident to hearing the issues in the petition shall be provided by court rule. Unless the hearing is waived, the judge shall hear the petition as soon as possible and no later than ten days after the date the petition is filed unless a reasonable delay is sought for good cause shown by the subject of the petition, his attorney, or those persons entitled to receive notice of the hearing under [subsection (b) (3).] paragraph (3).
 - (C) The subject of the petition shall be present at all hearings unless he waives his right to be present, is unable to attend or creates conditions which make it impossible to conduct the hearing in a reasonable manner as determined by the judge. A waiver is valid

only upon acceptance by the court following a judicial determination that the person understands his rights and is competent to waive them or is unable to participate. If the subject is unable to participate, the judge shall appoint a temporary guardian as provided in Article V of chapter 560, to represent him throughout the proceedings.

- (D) Hearings may be held at any convenient place within the circuit. The subject of the petition, any interested person, or the court on its own motion may request a hearing in another circuit because of convenience to the parties, witnesses, or the court or because of the individual's mental or physical condition.
- (E) The attorney general, his deputy, special deputy, or appointee shall present the case for hearings convened under this chapter, except that the attorney general, his deputy, special deputy, or appointee need not participate in or be present at a hearing whenever a petitioner or some other appropriate person has retained private counsel who will be present in court and will present to the court the case for involuntary hospitalization.
- (F) Counsel for the subject of the petition shall be allowed adequate time for investigation of the matters at issue and for preparation, and shall be permitted to present the evidence that the counsel believes necessary to a proper disposition of the proceedings, including evidence as to alternatives to inpatient hospitalization.
- (G) No individual may be found to require medical treatment unless at least one physician who has personally examined him testifies in person at the hearing. This testimony may be waived by the subject of the petition. If the subject of the petition has refused to be examined by a licensed physician, he may be examined by a court-appointed licensed physician. If he refuses and there is sufficient evidence to believe that the allegations of the petition are true, the court may make a temporary order committing him to a psychiatric facility for a period of not more than five days for the purpose of a diagnostic examination and evaluation. The subject's refusal shall be treated as a denial that he is mentally ill or suffering from substance abuse. Nothing herein, however, shall limit the individual's privilege against self-incrimination.
- (H) The subject of the petition in a hearing under this section has the right to secure an independent medical evaluation and present evidence thereon.
- (I) If after hearing all relevant evidence, including the result of any diagnostic examination ordered by the court, the court finds that an individual is not a person requiring medical, psychiatric, or other rehabilitative treatment or supervision, the court shall order that he be discharged if he has been hospitalized prior to the hearing. If the court finds [beyond a reasonable doubt] that the criteria for involuntary hospitalization under paragraph (1)(A) has been met[,]

beyond a reasonable doubt and that the criteria under paragraphs (1)(B) and (1)(C) have been met by clear and convincing evidence, the court may issue an order to any police officer to deliver the subject to a facility that has agreed to admit the subject as an involuntary patient, or if the subject is already a patient in a psychiatric facility, authorize the facility to retain the patient for treatment for a period of ninety days unless sooner discharged. An order of commitment shall specify which of those persons served with notice pursuant to [subsection (b)(3),] paragraph (3), together with such other persons as the court may designate, shall be entitled to receive any subsequent notice of intent to discharge, transfer, or recommit.

- (J) The court may find that the subject of the petition is an incapacitated [and/or] or protected person, or both, under Article V of chapter 560, and may appoint a guardian of the person [and/or], or property, or both, for the subject under the terms and conditions as the court shall determine.
- (5) Period of detention. The psychiatric facility may detain a subject for a period of time ordered by the court not to exceed ninety days from the date of admission unless sooner discharged by the facility pursuant to section 334-76 or section 334-74. At the end of the ninety-day period he shall be discharged automatically, except as provided in sections 704-406, 704-411, and 706-607, unless before expiration of the period and by a proceeding initiated pursuant to this section the facility obtains a court order for his recommitment. Recombitment for a period not to exceed ninety days may not be ordered unless the court determines that the criteria for involuntary hospitalization set forth in [subsection (b)(1)] paragraph (1) continue to exist. If at the end of a recommitment period the court finds that the criteria for involuntary hospitalization set forth in [subsection (b)(1)] paragraph (1) continue to exist and are likely to continue beyond ninety days, the court may order recommitment for a period not to exceed [180] one hundred eighty days.
- (6) Notice of intent to discharge. When the administrator of a psychiatric facility contemplates discharge of an involuntary patient because of expiration of the court order for commitment or because the patient is no longer a proper subject for commitment, as determined by the criteria for involuntary hospitalization in [subsection (b) (1),] paragraph (1), he shall provide notice of intent to discharge. The notice shall be filed with the court and served personally or by certified mail on those persons which the order of commitment specifies as entitled to receive notice. If no objection is filed within three days of service, the [court shall enter an order of discharge.] administrator of the psychiatric facility shall discharge the patient. If any person specified as entitled to receive notice files a written objection to discharge, the court shall conduct a hearing [prior to issuing an order of discharge.] to

determine if the patient still meets the criteria for involuntary hospitalization in paragraph (1). If the court finds that the patient does not meet the criteria for involuntary hospitalization in paragraph (1), the court shall issue an order of discharge. If the court finds that the patient does meet the criteria for involuntary hospitalization in paragraph (1), the court shall issue an order denying discharge."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

ACT 174

S.B. NO. 994

A Bill for an Act Relating to the Molokai General Hospital.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The department of health is authorized to make a loan of not more than \$250,000 to the Molokai general hospital if the board of trustees of the hospital agree to use the proceeds to continue the operation of the hospital.

SECTION 2. The department of health and board of trustees of the Molokai general hospital shall negotiate the terms and conditions of the loan, which may include, but are not limited to:

- (1) The interest rate, if any;
- (2) The repayment schedule for the loan;
- (3) Necessary collateral, if determined desirable;
- (4) The minimum period during which the hospital shall continue operation if the loan is made;
- (5) Specification of operation, maintenance, or service requirements, if determined necessary; and
- (6) Provisions allowing the transfer of the loan from the board of trustees to a third person.

SECTION 3. If the department of health and the board of trustees of the Molokai general hospital agree to terms and conditions of a loan, the department of health may issue the loan to the hospital in installments or lump sum. The department of health shall collect the principal and interest, if any, on the loan and transmit the proceeds to the director of finance for deposit into the general fund.

SECTION 4. This Act shall be terminated on:

- (1) July 1, 1984 if the department of health has not agreed to make a loan to the Molokai general hospital by that date; or
- (2) The date of the repayment of the entire principal and interest, if any, on the loan, whether by the board of trustees of the Molokai general hospital or other person who has assumed the loan.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000, or so much thereof as may be necessary, for fiscal years 1982-1983 and 1983-1984, for the purpose of this Act.

The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

ACT 175

S.B. NO. 1003

A Bill for an Act Relating to Land Sales.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The intent of this Act is to amend chapter 484, Hawaii Revised Statutes, the Uniform Land Sales Practices Act, to modernize the procedural aspects of the Act, and assure that consumers are adequately protected.

Presently, chapter 484, Hawaii Revised Statutes, prohibits the disposition of lots in a subdivision until the subdivision is registered with the state department of commerce and consumer affairs, and the prospective purchasers are provided a copy of the current public offering statement and have had a reasonable opportunity to examine the statement. Certain types of transactions, subdividers, and small subdivisions are exempt from the chapter. The intent of chapter 484, Hawaii Revised Statutes, is to assure that potential purchasers are protected, by requiring the subdivider to provide adequate disclosure of information on the subdivision to prospective purchasers of lots.

The county governments also regulate the sale of lots in a subdivision. For example, Rule 1-103(d) of the Subdivision Rules and Regulations of the City and County of Honolulu provides that "No person shall sell, transfer, or advertise, any interest in land located in a subdivision...until the final map thereof has been approved by the Director [of Land Utilization] and recorded in (sic) the State Registrar of Conveyances, Registrar of the Land Courts or Office of the State Surveyor."

Although certain types of subdivisions are exempt from chapter 484, Hawaii Revised Statutes, to assure that prospective purchasers are protected, the state department of commerce and consumer affairs does not grant the exemption until the subdivision receives final approval from the county government.

To obtain final approval of the subdivision from the county government, various conditions must be met. For example, in the city and county of Honolulu, detailed construction plans of the subdivision must be prepared, and approved by the city agencies, and the park dedication ordinance requirement must be satisfied. Then, to obtain final approval of the subdivision, either the subdivision improvements must be completed and accepted by the city (by dedication of all roads and easements by the subdivider to the city), or the subdivider must provide the city with a financial guarantee that the improvements will be completed. If the subdivider

chooses to obtain final approval of the subdivision by providing a financial guarantee, the city will require that the contractor's performance bond, the subdivider's completion bond, a maintenance bond, and an energizing bond be posted by the subdivider.

Since most subdivisions are completed by way of financing through a construction loan, and since the construction lender will not disburse any loan funds without the city-approved subdivision as security underlying its construction loan mortgage, the subdivider must solicit a surety company to underwrite the bonds required by the city to obtain final approval of the subdivision to satisfy the lender's legal requirements for security of the construction loan.

Before the surety issues the bonds to the city, however, the surety will require that the construction lender issue a set-aside letter to the surety. The set-aside letter irrevocably sets aside funds in the construction loan for the use of the surety in the event that the subdivider defaults in any manner in completing the subdivision as required by the city. The construction lender, however, will not issue the set-aside letter until it is assured that the subdivision project is viable, and its loan is secure. Thus, the lender requires that the subdivider pre-sell enough lots to cover the construction loan amount, to assure that the loan is secure, before it issues the set-aside letter to the surety. The subdivider, therefore, must pre-sell lots to obtain final approval of the subdivision, although state and city requirements prohibit these pre-sales until after final approval is granted.

This Act resolves the above-cited legal dilemma, by allowing the sale of lots upon preliminary approval of the subdivision, yet assuring that purchasers are protected. This Act establishes a procedure to allow a purchaser to rescind the transaction if there is a material difference with regard to the lot or the terms of the purchase between the preliminary and final approvals. This procedure has been patterned after the State's condominium law, which was drafted to allow pre-sales before the final public report is issued.

This Act also makes various housekeeping amendments to the law, including amendments giving the director rule-making authority in connection with obtaining a certification by the Secretary of the Department of Housing and Urban Development pursuant to 15 U.S.C. section 1708.

This Act also amends the Act to allow the Director to make rules which assist in obtaining certification of our state law by the Secretary of Housing and Urban Development, pursuant to 15 U.S.C. section 1708. This certification will allow any offering statement for land in Hawaii to suffice for the requirements of any other State which has its law certified. This will obviate the reregistration of a public offering statement for land in Hawaii in a multiplicity of other states where the subdivision may be sold.

This Act also makes various housekeeping amendments, including allowing the Director to hire consultants to review any applications submitted, and raising the fees for applications and property inspections. The existing sections on revocation of orders, penalties, and civil remedies have also been amended for housekeeping purposes.

SECTION 2. Section 484-3, Hawaii Revised Statutes, is amended to read as follows:

"§484-3 Exemptions. (a) Unless the method of disposition is adopted for the purpose of evasion of this chapter, this chapter does not apply to offers or dispositions of an interest in land:

- (1) By a purchaser of subdivided lands for his own account in a single or isolated transaction;
 - (2) If fewer than twenty separate lots, parcels, units, or interests in subdivided lands are offered by a person in a period of twelve months[;], unless the subdivider files with the director a written election that this chapter shall apply to that subdivision;
 - (3) On which there is a residential, commercial, or industrial building, or as to which there is a legal obligation on the part of the seller to construct such a building within two years from date of disposition;
 - (4) To persons who are engaged in the business of construction of building for resale, or to persons who acquire an interest in subdivided lands for the purpose of engaging, and do engage in the business of construction of building for resale[;], unless the subdivider files with the director a written election that this chapter shall apply to that subdivision;
 - (5) Pursuant to court order;
 - (6) By any government or government agency;
 - (7) As cemetery lots of interests;
 - (8) Established as a horizontal property regime pursuant to chapter 514A.
- (b) Unless the method of disposition is adopted for the purpose of evasion of this chapter, this chapter does not apply to:
- (1) Offers or dispositions of evidence of indebtedness secured by a mortgage or deed of trust of real estate;
 - (2) Offers or dispositions of securities or units of interest issued by a real estate investment trust regulated under any state or federal statute;
 - (3) A subdivision as to which the plan of disposition is to dispose to ten or fewer persons;
 - [(4)] A subdivision as to which the director of regulatory agencies has granted an exemption as provided in section 484-10;
 - [(5)] (4) Offers or dispositions of securities currently registered with the commissioner of securities of this State; [and
 - [(6)] (5) Offers or dispositions of any interest in oil, gas, or other minerals or any royalty interest therein if the offers or dispositions of such interests are regulated as securities by the United States or by the commissioner of securities of this State; and
 - [(7)] (6) Subdivisions of less than twenty lots, parcels, units, or interests, if they are all located in jurisdictions requiring the developer prior to sale to provide or post bond for road access, sewage disposal, water, and other public utilities, if such requirements have been complied with."

SECTION 3. Section 484-4, Hawaii Revised Statutes, is amended to read as follows:

“§484-4 Prohibitions on dispositions of interests in subdivisions. Unless the subdivided lands or the transaction is exempt by section 484-3[:] or exempted by the director under section 484-10(g):

- (1) No person may offer or dispose of any interest in subdivided lands located in this State, [nor] or offer or dispose in this State of any interest in subdivided lands located without this State [prior to the time the subdivided lands are registered] before a preliminary or final order registering the subdivided land is entered in accordance with this chapter;
- (2) No person may dispose of any interest in subdivided lands unless a current public offering statement is delivered to the purchaser and the purchaser is afforded a reasonable opportunity to examine the public offering statement prior to the disposition.”

SECTION 4. Section 484-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The application for registration of subdivided lands shall be filed [as prescribed by the director of regulatory agencies’ rules] in accordance with this chapter and rules adopted by the director pursuant to chapter 91, and shall contain the following documents and information:

- (1) An irrevocable appointment of the director to receive service of any lawful process in any noncriminal proceeding arising under this chapter against the applicant or his personal representative;
- (2) A legal description of the subdivided lands offered for registration, together with a map showing the division proposed or made, and the land area of the lots, parcels, units, or interests and the relation of the subdivided lands to existing streets, roads, and other off-site improvements;
- (3) The states or jurisdictions in which an application for registration or similar document has been filed, and any adverse order, judgment, or decree entered in connection with the subdivided lands by the regulatory authorities in each jurisdiction or by any court;
- (4) The applicant’s name, address, and the form, date, and jurisdiction of organization; and the address of each of its offices in this State;
- (5) The name, address, and principal occupation for the past five years of every director and officer of the applicant or person occupying a similar status or performing similar functions; the extent and nature of his interest in the applicant or the subdivided lands as of a specified date within thirty days of the filing of the application;
- (6) A statement, in a form acceptable to the director, of the condition of the title to the subdivided lands including encumbrances as of a specified date within thirty days of the date of application by a title opinion of a licensed attorney, not a salaried employee, officer, or director of the applicant or owner, or by other evidence of title acceptable to the director;

- (7) Copies of the instruments which will be delivered to a purchaser to evidence his interest in the subdivided lands and of the contracts and other agreements which a purchaser will be required to agree to or sign;
- (8) Copies of the instruments by which the interest in the subdivided lands was acquired and a statement of any lien or encumbrance upon the title and copies of the instruments creating the lien or encumbrance, if any, with data as to recording;
- (9) If there is a lien or encumbrance affecting more than one lot, parcel, unit, or interest a statement of the consequences for a purchaser of failure to discharge the lien or encumbrance and the steps, if any, taken to protect the purchaser in case of this eventuality;
- (10) Copies of instruments creating easements, restrictions, or other encumbrances, affecting the subdivided lands;
- (11) A statement of the zoning and other governmental regulations affecting the use of the subdivided lands and also of any existing tax and existing or proposed special taxes or assessments which affect the subdivided lands;
- (12) A statement of the existing provisions for access, sewage disposal, water, and other public utilities in the subdivision; a statement of the improvements to be installed, the schedule for their completion, and a statement as to the provisions for improvement maintenance;
- (13) A narrative description of the promotional plan for the disposition of the subdivided lands together with copies of all advertising material which [has] have been prepared for public distribution by any means of communication;
- (14) The proposed public offering statement;
- (15) An executed copy of the escrow agreement between the subdivider and a bank, savings and loan association, trust company authorized to do business in the State under an escrow arrangement, or a corporation licensed as an escrow depository under chapter 449; which agreement:
 - (A) Provides that all funds and instruments received from purchasers or prospective purchasers shall be held by the escrow agent in accordance with this chapter and any rules adopted by the director pursuant to chapter 91; and
 - (B) Complies with the requirements of this chapter and any rules adopted by the director pursuant to chapter 91;
- [(15)] (16) Any other documents or information, including any current financial statement, which the director by [his] the director's rules requires [for]:
 - (A) For the protection of purchasers; or
 - (B) To obtain, or as a result of having obtained, certification of Hawaii law by the Secretary of the Department of Housing and Urban Development pursuant to 15 U.S.C. section 1708;
- [(16)] (17) A statement which indicates the existing zoning and the general plan land use designation of each lot and the proposed use of each lot in the subdivision, to include without limitation such uses as residential

dwelling, churches, agriculture, hospitals, schools, low density apartments, high density apartments and hotels, and a subdivision map which shows such information.”

SECTION 5. Section 484-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A public offering statement shall disclose fully and accurately the physical characteristics of the subdivided lands offered and shall make known to prospective purchasers all unusual and material circumstances or features affecting the subdivided lands. The proposed public offering statement submitted to the director [of regulatory agencies] shall be in a form prescribed by [his] the director’s rules and shall include the following:

- (1) The name and principal address of the subdivider;
- (2) A general description of the subdivided lands stating the total number of lots, parcels, units, or interests in the offering;
- (3) The significant terms of any encumbrances, easements, liens, and restrictions, including zoning and other regulations affecting the subdivided lands and each unit or lot, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect the subdivided lands;
- (4) A statement of the use for which the property is offered;
- (5) Information concerning improvements, including streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities, and customary utilities, and the estimated cost, date of completion, and responsibility for construction and maintenance of existing and proposed improvements which are referred to in connection with the offering or disposition of any interest in subdivided lands;
- (6) Additional information required by the director to assure full and fair disclosure [to]:
 - (A) To prospective purchasers; or
 - (B) To obtain, or as a result of having obtained, certification by the Secretary of the Department of Housing and Urban Development pursuant to 15 U.S.C. section 1708;
- (7) A statement which indicates the existing zoning and the general plan land use designation of each lot and the proposed use of each lot in the subdivision, to include without limitation such uses as residential dwellings, churches, agriculture, hospitals, schools, low density apartments, high density apartments and hotels, and a subdivision map which shows such information[.]; and
- (8) A statement that the purchaser has a seven-day period, after signing a contract to purchase subdivided lands from the subdivider, the rescind the contract at no penalty to the purchaser.”

SECTION 6. Section 484-7, Hawaii Revised Statutes, is amended to read as follows:

“**§484-7 [Inquiry] Notice of filing; inquiry and examination.** (a) Upon receipt of an application for registration in proper form, the director shall issue a

notice of filing to the applicant subject to section 484-20, and forthwith initiate an examination to determine that:

- (1) The subdivider can convey or cause to be conveyed the interest in subdivided lands offered for disposition if the purchaser complies with the terms of the offer, and when appropriate, that release clauses, conveyances in trust, or other safeguards have been provided;
- (2) There is reasonable assurance that all proposed improvements will be completed as represented;
- (3) The advertising material and the general promotional plan are not false or misleading and comply with the standards prescribed by the rules adopted by the director [in his rules] and afford full and fair disclosure;
- (4) The subdivider has not, or if a corporation, its officers, directors, and principals have not, been convicted of a crime involving land dispositions or any aspect of the land sales business in this State, United States, or any other state or foreign country within the past ten years and has not been subject to any injunction or administrative order within the past ten years restraining a false or misleading promotional plan involving land dispositions;
- (5) The public offering statement requirements of this chapter have been satisfied[.];
- (6) The purchaser has a seven-day period, after signing a contract to purchase subdivided lands from the subdivider, to rescind the contract at no penalty to the purchaser, and the subdivider has established a mechanism by which the purchaser will receive and sign a receipt for a written notice of such rescission right and the receipt will be deposited with the escrow agent.

(b) Upon receipt of an application for exemption from registration pursuant to section 484-10(g) in proper form, the director shall issue a notice of filing to the applicant, and forthwith initiate an examination to determine that:

- (1) The subdivider can convey or cause to be conveyed the interest in subdivided lands offered for disposition if the purchaser complies with the terms of the offer, and when appropriate, that release clauses, conveyances in trust, or other safeguards have been provided;
- (2) There is reasonable assurance that all proposed improvements will be completed as represented;
- (3) The advertising material and the general promotional plan are not false or misleading and comply with the standards prescribed by the rules adopted by the director and afford full and fair disclosure;
- (4) The subdivider has not, or if a corporation, its officers, directors, and principals have not, been convicted of a crime involving land dispositions or any aspect of the land sales business in this State, United States, or any other state or foreign country within the past ten years and has not been subject to any injunction or administrative order within the past ten years restraining a false or misleading promotional plan involving land dispositions;

- (5) If the subdivided land has not yet received final subdivision approval from the county:
 - (A) Preliminary subdivision approval has been granted by the county in which the land is situated;
 - (B) The purchaser has a seven-day period after signing a contract to purchase subdivided lands from the subdivider to rescind the contract at no penalty to the purchaser;
 - (C) The subdivider has established a mechanism by which the purchaser will receive and sign a receipt for a written notice of such rescission right and the receipt will be deposited with the escrow agent."

SECTION 7. Section 484-8, Hawaii Revised Statutes, is amended to read as follows:

"§484-8 [Notice of filing and registration.] Orders of registration, exemption, and rejection; general provisions. (a) [Upon receipt of the application for registration in proper form, the director of regulatory agencies shall issue a notice of filing to the applicant.] Within forty-five days from the date of the notice of filing, the director shall enter [an] a preliminary or final order registering the subdivided lands or rejecting the registration[. If no order of rejection is entered within forty-five days from the date of notice of filing, the land shall be deemed registered unless the applicant has consented in writing to a delay.], or shall enter a preliminary or final order exempting the subdivided lands pursuant to section 484-10(g) or rejecting the application for exemption.

Unless the applicant has consented in writing to a delay, the land shall be deemed registered in the case of an application for registration, or the land shall be deemed exempt from registration in the case of an application for a section 484-10(g) exemption, if the director fails to enter an order of rejection within forty-five days from the date of the notice of filing.

(b) If, in the case of an application for a final order of registration, the director affirmatively determines, upon inquiry and examination, that the requirements of section 484-7 have been met, [he] the director shall enter [an] a final order registering the subdivided lands and shall designate the form of the public offering statement.

If, in the case of an application for a final order exempting the subdivided lands pursuant to section 484-10(g), the director affirmatively determines, upon inquiry and examination, that the requirements of section 484-10(g) have been met, the director shall enter a final order exempting the subdivided lands from registration pursuant to section 484-10(g).

(c) If the director determines upon inquiry and examination that, in the case of an application for a final order of registration, any of the requirements of section 484-7, or, in the case of an application for a final order of exemption under section 484-10(g), any of the requirements of section 484-10(g), have not been met, the director shall notify the applicant that the application for a final order of registration, or exemption under section 484-10(g), must be corrected in the particulars specified within ten days. If the requirements are not met within the time allowed the director shall enter an order rejecting the registration or application for a

section 484-10(g) exemption, which order shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective for twenty days during which time the applicant may petition for reconsideration and shall be entitled to a hearing."

SECTION 8. Chapter 484, Hawaii Revised Statutes, is amended by adding four new sections to read as follows:

"§484-8.5 Preliminary order of registration or exemption. (a) The director shall enter a preliminary order of registration or of exemption under section 484-10(g) when:

- (1) The director receives a request therefor together with an application for registration or for exemption under section 484-10(g);
- (2) The director affirmatively determines, upon inquiry and examination, that the applicable requirements of section 484-7 have been met except for some particular requirement or requirements which is, or are, at the time not fulfilled, but which reasonably may be expected to be fulfilled; and
- (3) Preliminary subdivision approval has been granted by the county in which the land is situated.

No preliminary order of registration shall be issued unless the director is satisfied that the public offering statement adequately discloses all matters required by section 484-6(a).

(b) If the director determines upon inquiry and examination that any of the requirements for issuance of a preliminary order of registration or of exemption under section 484-10(g) have not been met, the director shall notify the applicant that the application for a preliminary order of registration or exemption must be corrected in the particulars specified within forty-five days. If the requirements are not met within the time allowed the director shall enter an order rejecting the registration or application for a section 484-10(g) exemption, which order shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective for twenty days during which time the applicant may petition for reconsideration and shall be entitled to a hearing.

(c) Upon issuance by the director of a preliminary order of registration or of exemption under section 484-10(g), the subdivider may solicit and accept binding sales contracts (subject to any rights of rescission in favor of the purchaser as set forth in this chapter) or non-binding reservation agreements to purchase the subdivided lands, notwithstanding any law requiring that final subdivision approval be granted prior to the offer or sale of subdivided lands; provided that any earnest money deposits received by the subdivider or its agents shall take the form of a check or other instrument within the meaning of article 3 of chapter 490 and shall be payable to the escrow agent, and that no cash shall be accepted by the subdivider or its agents.

(d) All sums paid by purchasers and prospective purchasers prior to the time the director issues a final order registering the subdivided lands or exempting the subdivided lands pursuant to section 484-10(g) shall be placed in an escrow account under an escrow agreement which provides that no disbursements shall be made from such escrow account to or on behalf of the subdivider until the director

enters a final order registering the subdivided lands or exempting the subdivided lands pursuant to section 484-10(g) and the requirements of sections 484-8.7 and 484-8.6(b) and (c) have been met. However, the subdivider or its agents may hold, until the expiration of the seven-day cancellation period provided by section 484-7(a)(6) or any longer purchaser cancellation period (not exceeding sixty days) provided in the sales contract, any instrument made by a purchaser:

- (1) For which subsequent holders may not claim holder-in-due-course status within the meaning of article 3 of chapter 490; or
- (2) Where the payee is the escrow agent.

(e) Rights under contracts for the sale of subdivided lands, although binding on the purchaser, may not be enforced against the purchasers so as to require the purchasers to close until:

- (1) A final order of registration or of exemption pursuant to section 484-10(g) is entered by the director; and
- (2) If the purchasers are provided a rescission right under section 484-8.7 or 484-8.6(b) or (c), the purchasers have had a full opportunity to obtain a refund of any sums paid and a release from their obligations under their sales contracts.

§484-8.6 Final order of registration or exemption. (a) If the subdivider has obtained a preliminary order of registration or section 484-10(g) exemption, then upon the issuance of final subdivision approval of the subdivision by the county in which the land is situated, the subdivider shall submit to the director an application for a final order of registration or exemption pursuant to section 484-10(g), which application shall contain, among other things:

- (1) A copy of the subdivision map for the subdivision and evidence satisfactory to the director that final subdivision approval has been granted by the county; and
- (2) A written statement disclosing any material changes to the subdivision which may have occurred between the date of preliminary subdivision approval and the date of final subdivision approval.

Upon receipt of the subdivider's application, the director shall enter a final order of registration or exemption, or rejection, pursuant to section 484-8.

(b) As a condition to issuing a final order of registration or exemption for a subdivision with respect to which a preliminary order was entered, the director may require that the subdivider:

- (1) Amend the public offering statement, in the case of an application for registration, to provide fair and full disclosures to the purchasers of any material changes to the subdivision; or
- (2) In the case of an application for section 484-10(g) exemption, prepare a written summary in form approved by the director providing fair and full disclosure to the purchasers of any material changes to the subdivision.

The amended public offering statement or written summary shall be delivered to the purchaser either personally or by certified or registered mail with return receipt requested, and at the same time the purchaser shall be notified in writing of the purchaser's right of refund and cancellation of obligation and the waiver of such

right upon the purchaser's failure to act within a seven-day period. Each purchaser shall have a right to cancel the sales contract signed by the purchaser and receive a refund of all sums paid by the purchaser within seven-day period from the date of delivery of the amended public offering statement or written summary to exercise the purchaser's right of refund and cancellation of obligation, after which period such right shall be deemed waived.

(c) If the final order of registration or section 484-10(g) exemption is not issued within one year from the date of entry of the preliminary order, each purchaser shall have a right to cancel the sales contract signed by the purchaser and receive a refund of all sums paid by the purchaser; provided that if the final order is issued after the one-year period and a written notice is delivered to the purchaser either personally or by certified or registered mail with return receipt requested, notifying the purchaser of the issuance of the final order of registration or section 484-10(g) exemption and of the purchaser's right of refund and cancellation of obligation and the waiver of such right upon the purchaser's failure to act within a seven-day period, which notice shall be accompanied by an amended public offering statement or written summary required under subsection (b), the purchaser shall have seven days from the date of delivery of the notice to exercise the purchaser's right of refund and cancellation of obligation, after which period such right shall be deemed waived.

(d) The requirements of subsections (b) and (c) shall apply only to purchasers who sign a sales contract before the issuance of a final order of registration or of section 484-10(g) exemption. The requirements of subsections (b) and (c) do not apply to prospective purchasers holding a reservation agreement which may be canceled at the request of the purchaser at any time prior to the execution by such prospective purchaser of a sales contract, or to persons who sign a sales contract or reservation agreement after the issuance of a final order by the director.

§484-8.7 Copy of amended public offering statements or written summary to be given to prospective purchasers. If a subdivider enters into a reservation agreement with a prospective purchaser for the subdivision before the issuance of a final order, any sales contract later entered into by the subdivider and that prospective purchaser after the final order is issued shall not be binding on the purchaser until the requirements of section 484-8.6 (b) have been met, and unless any amended public offering statement or written summary required by the director under section 484-8.6(d) is provided to the prospective purchaser before the purchaser signs the sales contract.

The requirements of section 484-8.6(b) shall apply as if the purchaser had signed the purchaser's sales contract before the final order was entered by the director; provided that the requirements of this section shall not apply if the director does not require under section 484-8.6(b) that an amended public offering statement or written summary be prepared in connection with the issuance of a final order.

§484-8.8 Receipt for amended public offering statement and written summary. (a) Whenever the director requires pursuant to section 484-8.6(b) that an amended public offering statement or written summary be prepared by the subdivider, the subdivider shall obtain a receipt therefor from each purchaser or prospective purchaser who signed a sales contract or reservation agreement to

purchase subdivided lands before the issuance of the director's final order. If the amended public offering statement or written summary is delivered to the purchaser or prospective purchaser by certified or registered mail, return receipt requested, and the prospective purchaser does not execute and return the purchaser's receipt for the amended public offering statement or written summary within seven days from the date of delivery, the purchaser shall be deemed to have receipted for it; provided that the receipt shall be effective only if at the time of the delivery of the amended public offering statement or written summary the prospective purchaser is notified in writing of the fact that the purchaser will be deemed to have executed the receipt for it upon the purchaser's failure to act within the seven-day period.

(b) Receipts taken for any amended public offering statement or written summary shall be kept on file in possession of the subdivider, subject to inspection at any reasonable time by the director, for a period of three years from the date the receipt was taken."

SECTION 9. Section 484-10, Hawaii Revised Statutes, is amended to read as follows:

"§484-10 General powers and duties. (a) The director [of regulatory agencies] shall prescribe reasonable rules which shall be adopted, amended, or repealed in compliance with chapter 91. The rules shall include, but not be limited to, provisions for advertising standards to assure full and fair disclosure; provisions for escrow or trust agreements or other means reasonably to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land contracted for; provisions for operating procedures; and other rules as are necessary and proper to accomplish the purpose of this chapter.

(b) The director by rule or by an order, after reasonable notice and hearing, may require the filing of advertising material relating to subdivided lands prior to its distribution.

(c) If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter, or a rule or order hereunder, the director, with or without prior administrative proceedings, may bring an action in the circuit court to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order hereunder. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver or conservator may be appointed. The director is not required to post a bond in any court proceedings.

(d) The director may intervene in a suit involving subdivided lands. In any suit by or against a subdivider involving subdivided lands, the subdivider promptly shall furnish the director notice of the suit and copies of all pleadings.

(e) The director may:

- (1) Accept registrations filed in other states or with the federal government;
- (2) Contract with similar agencies in this [state] State or other jurisdictions to perform investigative functions;
- (3) Accept grants-in-aid from any source.

(f) The director shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules, and common administrative practices. The director may seek certification of this Act from the Secretary of Housing and Urban Development pursuant to 15 U.S.C. section 1708.

(g) The director may exempt a subdivision of one hundred or fewer lots, parcels, units, or interests from registration required by this chapter if [he] the director determines that [the plan of promotion and disposition is primarily directed to persons in the local community or county in which the subdivision is situated.], the requirements of section 484-7(b) and the applicable provisions of section 484-8.5 are met.

This subsection shall not be construed or interpreted to exempt subdivisions, subdividers, or any persons from the enforcement provisions of this chapter.

The director shall establish, through properly adopted rules, a section 484-10(g) exemption from registration application procedure, subject to section 484-8.

(h) The director, from time to time, may hire consultants, who shall not be subject to chapters 76 and 77, to do any detailed inspection reports permitted or required by this chapter, the cost of which shall be borne by the applicant pursuant to section 484-20(b)(3).

(i) The director, from time to time, may hire consultants in connection with the review of a subdivider's application for a preliminary or final order of registration or section 484-10(g) exemption. The consultant shall be asked to review thoroughly the application for the purpose of examining its compliance with the requirements of this chapter and any rules adopted, including the documentation and other materials provided in connection therewith, and, in the case of an application for registration, the disclosure thereof in the public offering statement, or in the case of a final order of registration or section 484-10(g) exemption, any amended public offering statement or written summary to be provided to the purchasers. Upon completing the review, the consultant shall provide a written analysis of the application and any public offering statement or written summary, and an opinion of the nature and extent to which they comply with this chapter and the rules adopted thereto. The consultant shall not be subject to chapters 76 and 77, and the cost of retaining them shall be borne by the subdivider."

SECTION 10. Section 484-13, Hawaii Revised Statutes, is amended to read as follows:

"§484-13 Revocation. (a) A registration or exemption may be revoked by the director after notice and hearing upon a written finding of fact that the subdivider has:

- (1) Failed to comply with the terms of a cease and desist order;
- (2) Been convicted in any court subsequent to the filing of the application for registration or exemption for a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions;
- (3) Disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of subdivision purchasers;

- (4) Failed faithfully to perform any stipulation or agreement made with the director [of regulatory agencies] as an inducement to grant any registration[,] or exemption, to reinstate any registration[,] or exemption, or to approved any promotional plan or public offering statement;
- (5) Made intentional misrepresentations or concealed material facts in an application for registration[.] or exemption.

Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(b) If the director finds after notice and hearing that the subdivider has been guilty of a violation for which revocation could be ordered, [he] the director may issue a cease and desist order instead."

SECTION 11. Section 484-15, Hawaii Revised Statutes, is amended to read as follows:

"§484-15 Penalties. Any person who wilfully violates this chapter or a rule adopted under it or any person who wilfully, in an application for registration or exemption makes any untrue statement of a material fact or omits to state a material fact is guilty of a felony and may be fined not less that \$1,000 or double the amount of gain from the transaction, whichever is the larger but not more than \$50,000; or may be imprisoned for not more than two years, or both."

SECTION 12. Section 484-16, Hawaii Revised Statutes, is amended to read as follows:

"§484-16 Civil remedy. (a) Any person who disposes of subdivided lands in violation of section 484-4, or who in disposing of subdivided lands makes an untrue statement of a material fact, or who in disposing of subdivided lands omits a material fact required to be stated in a registration statement, an application, or public offering statement or necessary to make the statements made not misleading, is liable as provided in this section to the purchaser unless in the case of an untruth or omission it is proved by the subdivider that the purchaser knew of the untruth or omission, or that the person offering or disposing of subdivided lands did not know and in the exercise of reasonable care of a person in such person's occupation could not have known of the untruth or omission, or that the purchaser did not rely on the untruth or omission.

(b) In addition to any other remedies, the purchaser, under the preceding subsection, may recover the consideration paid for the lot, parcel, unit, or interest in subdivided lands together with interest at the rate of six per cent a year from the date of payment, property taxes paid, costs, and reasonable attorneys fees less the amount of any income received from the subdivided lands upon tender of appropriate instruments of reconveyance. If the purchaser no longer owns the lot, parcel, unit, or interest in subdivided lands, he may recover the amount that would be recoverable upon a tender of a reconveyance less the value of the land when disposed of and less interest at the rate of six per cent a year on that amount from the date of disposition.

(c) Every person who directly or indirectly controls a subdivider liable under subsection (a), every general partner, officer, or director of a subdivider, every person occupying a similar status or performing a similar function, every

employee of the subdivider who materially aids in the disposition, and every agent who materially aids in the disposition is also liable jointly and severally with and to the same extent as the subdivider, unless the person otherwise liable sustains the burden of proof that he did not know and in the exercise of reasonable care of a person in such person's occupation could not have known the existence of the facts by reason of which the liability is alleged to exist. There is a right to contribution as in cases of contract among persons so liable.

(d) Every person whose occupation gives authority to a statement which with his consent has been used in an application for registration or exemption or public offering statement, if he is not otherwise associated with the subdivision and development plan in a material way, is liable only for false statements and omissions in his statement and only if he fails to prove that he did not know and in the exercise of the reasonable care of a man in his occupation could not have known of the existence of the facts by reason of which the liability is alleged to exist.

(e) A tender of reconveyance may be made at any time before the entry of judgment.

(f) A person may not recover under this section in actions commenced more than four years after his first payment of money to the subdivider in the contested transaction.

(g) Any stipulation or provision purporting to bind any person acquiring subdivided lands to waive compliance with any provision of this chapter or any rule or order under it [is] shall be void.

(h) The rights and remedies provided by this chapter shall be in addition to any and all other rights and remedies that may exist at law or in equity."

SECTION 13. Section 484-20, Hawaii Revised Statutes, is amended to read as follows:

"§484-20 Fees and inspection expenses. (a) Notices of filing pursuant to section 484-8 shall not be issued until the applicant has paid to the director [of regulatory agencies] the proper registration or section 484-10(g) exemption fee and advanced the inspection expenses[, which shall not be refunded in the event registration is rejected. The] set forth in subsection (b). Neither the fee nor the advanced inspection expenses shall be refunded regardless of whether the application for registration or exemption is rejected or approved; provided that the director may return any unused inspection expenses moneys advanced under this section. The registration and exemption fee shall be based upon the number of lots, parcels, units, or interests to be registered[, or exempt from registration, at the following rates:

(1) up to 100 lots	[25] <u>\$100</u>
(2) 101 to 500 lots	[50] <u>\$200</u>
(3) over 500	[75] <u>\$300</u>

(b) In addition to the registration or section 484-10(g) exemption fee, the applicant shall deposit with the director sufficient sums to cover the following inspection expenses:

- (1) Round trip air and ground transportation from Honolulu to site of the subdivision;
- (2) Per diem of [\$30] \$65 per day for each day in which travel is required, plus one day for site inspection; and
- (3) [\$75] \$150 per day for salary of state official or consultant¹ inspecting [out-of-state] all subdivisions.
- (c) The director may waive the requirement for inspection.
- (d) The director, from time to time, may raise the registration fee, exemption fee, and inspection expenses under this section by rules adopted in accordance with chapter 91."

SECTION 14. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 15. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

Notes

1. Underscore missing.
2. Edited pursuant to HRS §23G-16.5.

ACT 176

H.B. NO. 45

A Bill for an Act Making an Appropriation for Sugar Research and Development.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the sugar industry is the largest agricultural industry in Hawaii and is a vital component of the State's economic base. This industry occupies approximately 215,000 acres of land and employs nearly 9,000 employees with an annual payroll that exceeds \$142 million a year. It is evident that the adverse effects of losing this industry would be catastrophic to the State. The legislature finds that it is in the public interest to continue assisting the sugar industry as it struggles through a time of economic difficulties.

The purpose of this Act is to provide funds for research performed by the industry and thereby offset the costs to the industry.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,000,000, or so much thereof as may be necessary for fiscal year 1983-1984, for sugar research and development; provided that no funds shall be made available under this Act unless the Hawaiian Sugar Planters' Association provides a dollar for dollar match of funds for the purpose for which this sum is appropriated.

SECTION 3. The sum appropriated shall be expended by the governor's agriculture coordinating committee for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

A Bill for an Act Relating to Chicken Eggs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There currently exists within the statutes governing chicken eggs, areas where the enforcement of quality assurance is weak. Revision of the statutes should be made to assure that the department of agriculture can continue to assist the industry in maintaining a quality product.

Producers of eggs can currently sell eggs of their own production off of the farm, at open markets, swap meets, roadside or in retail stores owned by them, without labeling the eggs as required for other retailers of eggs. This could lead to abuse and is unfair to other retailers. Sales on the farm should continue to be exempt from labeling requirements.

The provisions for the marking of imported eggs tend to insure that imported eggs are not falsely marketed as local eggs. The current statute is, however, overly restrictive and in practice unenforceable. The current practice of shipping eggs in sealed container vans protects the integrity of the lot of imported eggs until the time of inspection. To keep abreast with current transportation and marketing practices, the specific requirements for marking imported eggs and enforcement should be contained in rules of the department of agriculture.

The current procedure for imposing fines for violating the marking requirements requires criminal action. The prosecutor's office has not been able to handle requests for assistance in prosecuting violators due to their heavy load of cases. The cumbersome criminal procedure in order to assess fines greatly reduces the effectiveness of the department of agriculture to assure compliance with the law. It is further evident that the level of criminal fines contained within the law has been in effect for many decades and needs to be revised to be consistent with the present penalties imposed for misdemeanors.

SECTION 2. Section 147-74, Hawaii Revised Statutes, is amended to read as follows:

"§147-74 Grading standards and regulations. Subject to chapter 91, the department of agriculture may make rules [and regulations] with respect to:

- (1) Sale and transportation for sale of eggs for human consumption;
- (2) Specific grades or standards of quality, condition and size or weight classes which shall conform when practical to those established by the United States Department of Agriculture as local conditions will permit;
- (3) Inspection and classification;
- (4) Assessment and collection of fees for requested certification as to grade, standard of quality, condition, and size or weight classes;
- (5) Labeling of containers of imported and locally produced eggs[;] and marking of individual imported eggs as to origin;
- (6) Seller's invoice for sale of eggs;
- (7) Records of imported shell eggs of foreign origin;

- (8) Methods of determining egg quality, which shall not include recandling or any other method applied to eggs in interstate commerce which is discriminatory or impairs that commerce in any way or requires a cost increase of eggs in interstate commerce;
- (9) Enforcement of this part and of the rules [and regulations promulgated] adopted under this part."

SECTION 3. Section 147-75, Hawaii Revised Statutes, is amended to read as follows:

"§147-75 Notice of grade and size; designation of origin of imported eggs. It shall be unlawful for any person to sell, or offer to sell, or expose for sale to a consumer, any eggs, other than those of his own production at the place of production, intended for human consumption, without notifying, by suitable sign or label, the person purchasing or intending to purchase the same whether the same are imported from the mainland United State or foreign countries or of island production, and the exact grade or quality and the size or weight of the eggs, according to the standards prescribed by the department of agriculture.

The word "island" shall be used to designate the geographic origin of eggs produced in this State.

[In the case of eggs] Eggs imported from the mainland United States or foreign countries[, regardless of the person producing the same, each egg so imported] shall be individually marked [in clear and plain letters, of not less than twelve point type, the letters "U.S.", if the egg was produced in the mainland United States, or the name of the country, if the egg was produced in a foreign country, before the eggs may be removed from any dock or landing, and no crate or container containing the] as to origin. Imported eggs shall not be removed from any dock or landing without permission of the department of agriculture and shall not be processed, sold, or offered for sale until the consignee thereof has been furnished with a certificate [of] from the department of agriculture certifying that the eggs contained in the shipment in which the eggs arrived are marked as provided in this section[;] and rules of the department of agriculture; provided[,] that eggs which are preserved with an outer covering of ashes and salt need not be marked as herein provided."

SECTION 4. Section 147-79, Hawaii Revised Statutes, is amended to read as follows:

"§147-79 Penalties. Every person who violates this part shall be fined not more than [\$100 for the first offense; not more than \$200 for the second offense; not more than \$300] \$1,000 or imprisoned not more than [ninety days for the third and subsequent offenses.] one year, or both."

SECTION 5. Chapter 147, Part V, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§147- Administrative penalties. The department of agriculture may, after notice and hearing, fine any person who violates this part or any rule adopted under this part, not more than \$1,000 for each separate offense. Each day or instance of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this section shall be considered a civil action.

§147- Remedies and penalties not exclusive. The penalties and remedies provided in this part with respect to any violation of this part shall not be deemed exclusive of each other or of other civil or criminal rights, remedies, or penalties provided or allowed by law with respect to any such violation."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 7. This Act shall take effect upon its approval with the exception of amendments to section 147-75, Hawaii Revised Statutes, which shall take effect 180 days after approval or upon adoption of rules of the department of agriculture, whichever comes first.

(Approved June 6, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 178

H.B. NO. 253

A Bill for an Act Relating To Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to amend section 171-60(a), Hawaii Revised Statutes, to reinstate a major part of the subsection which was inadvertently deleted by Act 199, Session Laws of Hawaii 1981. As amended, the subsection contains none of the standards and procedures which are required to be followed, thereby effectively precluding the board of land and natural resources from leasing any public land or entering into development contracts with private developers.

SECTION 2. Section 171-60, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) Leasehold projects. Notwithstanding anything in this chapter to the contrary, the board may, by negotiation and without recourse to public auction, with the prior approval of the governor and authorization of the legislature by concurrent resolution approving a development project, such concurrent resolution to be adopted by each house no earlier than forty-eight hours after printed copies thereof have been made available to members of that house, (1) lease public lands, including submerged lands to be reclaimed at the developer's or developers' expense, to a private developer or developers, or (2) enter into a development agreement with a private developer or developers, for development and subdivision of such¹ lands as a leasehold project for agricultural, industrial, single-family or multiple-family residential, commercial, business, or hotel and resort uses, as provided in this subsection.

Prior to leasing any public land to, or entering into a development contract with, a developer or developers, the board shall:

(1) Determine:

- (A) Whether the lands shall be developed by disposition or contract;
- (B) The location, area, and size of the lands to be developed;

- (C) The use or uses to which the lands shall be put, which shall be in conformity with the applicable state, city and county, or county zoning and subdivision laws, ordinances, or regulations;
 - (D) The estimated period of time to construct and complete the development;
 - (E) Minimum requirements for on-site and off-site improvements, if any;
 - (F) Whether any beach rights-of-way or public game preserves should be established; and
 - (G) Such other terms and conditions as shall be deemed necessary by the board.
- (2) Set the minimum rental of the lands to be developed on the basis of an appraisal report prepared by an appraiser for the board determining the fair market value of the lands to be developed.
- (3) Give notice of the proposed disposition or contract by publication at least once in each of three successive weeks in a newspaper of general circulation in the State and in addition in a newspaper of general circulation in the appropriate county, if the land is situated in the first, second, and fourth districts. Such notice shall invite interested persons to submit applications to be selected as the developer or developers for the project and sealed bids for the development of the lands. The notice shall also state in general terms the size, location, and minimum rental of the area to be leased to the developer or developers, the minimum requirements for any required off-site and on-site improvement, the maximum estimated period of time to install and complete the construction of any required improvement, the use or uses to which such lands shall be put, the last date on which applications and sealed bids will be received by the board, which date shall not be less than thirty days or more than ninety days after the last date of publication of such notice, and the times and places at which more detailed information with respect to the disposition or contract may be secured by interested persons.

Each applicant shall include, together with the applicant's sealed bid, a financial statement, and performance and experience records in real estate development; provided that the board may also, in its discretion, require the applicant to submit answers, under oath, to questions contained in a questionnaire prepared by the board; the applicant's sealed bid shall include a development plan in as much detail as possible and including but not limited to the following: the applicant's proposal as to how and when the applicant intends to develop the land, including any permitted incremental development, the amount of money the applicant intends to commit to the total project, the method of recovery of the applicant's costs and profits, the amount the applicant agrees to pay to lease or contract to develop the land, and the income the State will receive from leases.

- (4) Establish reasonable criteria for the selection of the private developer or developers.
- (5) Determine within forty-five days of the last day for filing applications the applicant or applicants who meet the criteria for selection set by the board, and notify all applicants of its determination within seven days of such determination. Any applicant may examine the basis of the determination, which shall be in writing, to ascertain whether or not the conditions and criteria established by the board were followed; provided that if any applicant does not notify the board of any objections and the grounds therefor, in writing, within ten days of the receipt of such notice, the applicant shall be barred from proceeding to seek legal remedy for an alleged failure of the board to follow the conditions and criteria.

If only one applicant meets the criteria for selection as the developer, the board then may negotiate the details of the disposition of such public lands to, or enter into a development contract with, the developer; provided that the terms of the disposition or contract shall not be less than those proposed by the developer in the application and shall be subject to the concurrence of the governor. If two or more applicants meet the criteria for selection, the board shall consider all of the relevant facts of the disposition or contract, the proposals submitted by each applicant, the experience and financial capability of each applicant, and shall within forty-five days from the date of selection of the applicants that met the criteria, select the applicant who submitted the best offer. The board then may negotiate the details of the disposition of such public lands or enter into a development contract with the developer; provided that the terms of the disposition or contract shall not be less than those proposed by the developer in the application and shall be subject to the concurrence of the governor.

The terms of any disposition or development contract shall include the following, wherever appropriate:

- (A) The development and subdivision shall comply with appropriate state, county, and city and county zoning and subdivision requirements.
- (B) The developer or developers shall file with the board a good and sufficient bond conditioned upon the full and faithful performance of all the terms, covenants, and conditions of the disposition or development contract.
- (C) The use or uses to which the land will be put. Development of large, though economic, tracts of land with multiple but complementary uses should be encouraged.
- (D) The dates on which the developer must submit preliminary plans and final plans and specifications for the total development to the board for approval, which approval shall not be arbitrarily or capriciously withheld. No construction shall commence until the board has approved the final plans and specifications; provided

that with board approval construction on an incremental basis may be permitted.

- (E) The date of completion of the total development, including the date of completion of any permitted incremental development.
- (F) The minimum requirements for off-site and on-site improvements that the developer must install, construct, and complete by the date of completion of the total development. The board may permit incremental development and establish the minimum requirements for off-site and on-site improvements that must be installed, constructed, and completed prior to the date of completion of the total development.
- (G) In the event of a lease the developer may be permitted, after the developer has completed construction of any required off-site improvement, to assign or sublease with board approval portions of the leased lands in which the construction of any required off-site improvement has been completed to a purchaser or sublessee who shall assume the obligations of the developer relative to the parcel being assigned or subleased, including the construction of any on-site improvement. The board may permit a developer to share in the lease rent for a fixed period in order to recover costs and profit.
- (H) A development agreement may provide that the board shall issue a lease to the nominee or nominees of the developer, including the developer, pursuant to the terms previously negotiated and agreed upon between the developer and the board, including the lease rent to the lessee and the method of recoupment of expenses and profit by the developer.
- (I) The board shall lay out and establish a number of rights-of-way from proposed or established highways to the public beaches and game preserves in order that the right of the people to utilize the public beach or beaches and public game preserves shall be protected.

Prior to leasing or entering into any development contract, the board shall determine the feasibility of hunting on such lands, and if any of them is suitable for hunting or may during the term of the lease become suitable for hunting, the board may reserve such lands as game preserves. Where the board finds that hunting on such lands would not be consistent with the rights of the lessee or for other good cause, the board need not reserve such lands as game preserves.

The cost of such rights-of-way and any fencing which may be required shall be borne by the State, lessee, or jointly as the board may deem appropriate prior to the leasing of such lands.

In any disposition of beach-front lands, the board shall give consideration to the needs of the public for beach area above and below the highwater mark.

(J) The board may include in any development contract or lease, provisions concerning notice of breach or default, rights of a holder of a security interest, and consent to mortgage as set forth in sections 171-20, 171-21, and 171-22, respectively.

(K) Such other terms and conditions set by the board.

The term "developer" as used in this subsection shall mean a person, firm, corporation, partnership, association, trust, or other legal entity, or a combination of any thereof, who or which has experience in the development and subdivision of land for single-family, multiple-family, industrial, hotel and resort, business commercial, or agricultural uses and has the financial ability satisfactory to the board to develop and subdivide land."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

Note

1. Prior to amendment "public" appeared here.

ACT 179

H.B. NO. 256

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 171-95, Hawaii Revised Statutes, is amended to read:

"§171-95 Disposition to governments, governmental agencies, and public utilities. (a) Notwithstanding any limitations to the contrary, the board of land and natural resources may, without public auction:

- (1) Sell public lands at such price and on such other terms and conditions as the board may deem proper to governments, including the United States, city and county, counties, other governmental agencies authorized to hold lands in fee simple and public utilities;
- (2) Lease to the governments, agencies, and public utilities, public lands for terms up to, but not in excess of, sixty-five years at such rental and on such other terms and conditions as the board may determine;
- (3) Grant licenses and easements to the governments, agencies, and public utilities on such terms and conditions as the board may determine for road, pipeline, utility, communication cable, and other right-of-way;
- (4) Exchange public lands with the governments and agencies;
- (5) Execute quitclaim deeds to the governments and agencies, with or without consideration, releasing any claim to the property involved made upon disputed legal or equitable grounds, whenever the board in its discretion deems it beneficial to the State;
- (6) Waive or modify building and other requirements and conditions contained in deeds, patents, sales agreements, or leases held by the

governments and agencies whenever such waiver or modification is beneficial to the State.

- (b) In any disposition to public utilities under this section:
- (1) The sale price or lease rental shall be no less than the value determined in accordance with section 171-17(b)[.]; provided, however, that such sale price or lease rental may be on a nominal basis, if the board finds that such easement is required in connection with a government project.
- (2) The board shall provide that in case the land ceases to be used at any future time for the use for which the disposition was made, the board shall have the right to repurchase the land at the original sale price or fair market value, whichever is lower, and to purchase improvements thereon at the depreciated value or fair market value, whichever is lower.
- (3) Disposition shall not be made to any public utility if the utility has suitable lands of its own.
- (4) The disposition to public utilities shall be subject to disapproval by the legislature by two-thirds vote of either the senate or the house of representatives or by majority vote of both, in any regular or special session next following the date of the disposition.
- (5) For the purposes of this section, the definition of "public utility" as established in section 269-1 is hereby incorporated herein by reference."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

ACT 180

H.B. NO. 269

A Bill for an Act Relating to the Appointment of Members to the Hawaii Community Development Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 206E-3, Hawaii Revised Statutes, is amended to read:

"§206E-3¹ Hawaii community development authority; established. (a)

There is established the Hawaii community development authority, which shall be a body corporate and a public instrumentality of the State, for the purpose of implementing this chapter. The authority shall be placed within the department of planning and economic development for administrative purposes.

(b) The authority shall consist of eleven voting members. The director of finance, the director of planning and economic development, the comptroller, and the director of social services, or their respective designated representatives shall serve as ex officio, voting members. Seven members shall be appointed by the governor for staggered terms pursuant to section 26-34; provided that initially, three

members shall be selected from a list of ten prospective appointees recommended by the local governing body of the county in which the initial designated district is situated[.]; and provided further that when vacancies occur in any of the three positions for which the members were selected from a list of county recommendations, the governor shall fill such vacancies on the basis of one from a list of four recommendations, two from a list of seven recommendations, or three from a list of ten recommendations. The list of recommendations shall be made by the local governing body of the county. If an additional district is designated by the legislature in a county other than the county in which the initial designated district is situated, the total membership of the authority shall be increased as prescribed above the appointment of three additional members. All members shall continue in office until their respective successors have been appointed and qualified. Except as herein provided, no member appointed under this subsection shall be an officer or employee of the State or its political subdivisions.

(c) The authority shall appoint the executive director who shall be the chief executive officer. The authority shall set the salary of the executive director, who shall serve at the pleasure of the authority and shall be exempt from chapters 76 and 77.

(d) The authority shall annually elect the chairman and vice chairman from among its members.

(e) The members of the authority appointed under subsection (b) shall serve without compensation, but each shall be reimbursed for expenses, including travel expenses, incurred in the performance of their duties."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

Note

1. Brackets missing.

ACT 181

H.B. NO. 282

A Bill for an Act Relating to Reinstatement of a Suspended License or Permit.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 92-17, Hawaii Revised Statutes, is amended to read as follows:

"§92-17 Consumer complaints; procedures and remedies. (a) All boards as defined by section 92-2(1) established to license or regulate any profession, occupation, industry, or service, shall receive complaints from consumers and other persons claiming to be aggrieved by business practices related to their respective jurisdictions.

(b) Upon receipt of a written complaint or upon receipt of an investigation report generated by the board on its own motion which establishes an alleged

violation of any provision of law or rule that is within its jurisdiction, the board shall notify the licensee or person regulated of the charge against him and conduct a hearing in conformity with chapter 91 if the matter cannot be settled informally. If the board finds that the charge constitutes a violation, the board may order one or more of the following remedies as appropriate relief:

- (1) Refunding the money paid as fees for services;
 - (2) Correcting the work done in providing services;
 - (3) Revocation of the licensee's permit or license;
 - (4) Suspension of the licensee's permit or license; and
 - (5) Any other reasonable means to secure relief as determined by the board.
- (c) Notwithstanding any provision to the contrary:

- (1) No license or permit shall be suspended by the board for a period exceeding two years.
- (2) A person whose license or permit has been revoked by the board may not reapply for a license until the expiration of at least two years from the effective date of the revocation of the license or permit.
- (3) A suspended license or permit shall be reinstated at the end of the suspension; provided that the suspension does not carry forward to the next license period and the person satisfies all licensing requirements and conditions contained in the order of the suspension. If a suspension carries forward to the next license period, the board shall not renew the suspended license or permit during the usual renewal period. At the end of the suspension period, a person whose license or permit was suspended may be reinstated upon filing a reinstatement form provided by the board and payment of the renewal fees, satisfaction of any other renewal requirements and fulfillment of conditions, if any, contained in the order of suspension. If the person fails to apply within thirty days after the end of the suspension, the person's license or permit shall be forfeited.

(d) The failure or refusal of the licensee to comply with any board order, including an order of license suspension, shall also constitute grounds for further disciplinary action, including a suspension or revocation of license, imposition of which shall be subject to chapter 91 and the procedural rules of the board. The board may also apply to any circuit court for injunctive relief to compel compliance with the board's order. Where appropriate, the board shall refer for prosecution to the proper authority any practice constituting a violation which is subject to criminal penalty.

(e) If the subject matter of the complaint does not come within its jurisdiction, or if it is found that the charge does not constitute a violation, the board shall notify and inform the complainant in writing with regard to the reasons for its inability to act upon the complaint.

(f) The complainant and the licensee or person regulated may agree to resolve the complaint through final and binding arbitration pursuant to the provisions of chapter 658. In the event of [any such] an agreement to arbitrate, the board may enter an order dismissing any proceeding instituted pursuant to subsection (b);

provided that [any such] the order [or] of dismissal may be conditioned upon prompt and complete compliance with the arbitrator's award. In the event that the licensee or person regulated fails to comply with the terms of the arbitrator's award, the board may reopen [any such] the proceeding and may, after a hearing in conformity with chapter 91, order one or more of the remedies set forth in subsection (b).

Notwithstanding any provision of chapter 658 to the contrary, an arbitration agreement entered into pursuant to this section shall be approved by the board, and the parties shall agree on an arbitrator within five days after execution of the agreement. If the parties fail to agree on an arbitrator within the time above prescribed, the board may appoint an arbitrator from a list of arbitrators maintained for [such] that purpose by the department of commerce and consumer affairs."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

ACT 182

H.B. NO. 313

A Bill for an Act Relating to Place of Imprisonment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 706-672, Hawaii Revised Statutes, is amended to read:

"§706-672 Place of imprisonment. [(1)] When a person is sentenced to imprisonment [for an indeterminate term], the court shall commit him to the custody of the department of social services and housing for the term of his sentence and until released in accordance with law. The [court shall determine the initial place of confinement and the] director of the department of social services and housing shall determine the proper program of redirection and any [subsequent] place of confinement [best suited to meet the individual needs] of the committed person.

[(2)] When a person is sentenced to imprisonment for a definite term, the court shall designate the institution or agency to which he is committed for the term of his sentence and until released in accordance with law.]"

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

ACT 183

H.B. NO. 546

A Bill for an Act Relating to Employment of Patients at Facilities for the Treatment of Persons Suffering from Hansen's Disease.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to raise the compensation of patient employees at Hansen's disease facilities to minimum wage rates.

SECTION 2. Section 326-21, Hawaii Revised Statutes, is renumbered and amended to read:

"[§326-21 Labor of patients by consent. The department of health, with the consent of patients, may require the performance of a reasonable amount of labor or service as may be approved by the attending physician. For service rendered, the compensation of a patient shall be set by the department as a percentage of the minimum wage as established by section 387-2. The department shall establish a patient pay plan for six grades of work. The pay for grade I employees shall be equal to fifty-three per cent of the minimum wage established by section 387-2. The pay for grade VI employees shall be seventy and one-half per cent of the minimum wage as established by section 387-2. There shall be a spread of three and one-half per cent between each of the grades from one to six. The department of health shall set the pay for any other patient employee not covered under the foregoing six grade pay plan.]

§326-22 Compensation of patient employees. The compensation for patients employed under section 326-21 shall be set by the department of health; provided that in no case shall the compensation be less than the minimum wage as established by section 387-2.

Each patient employee of the department shall be entitled to and granted a vacation with pay each calendar year, calculated at the following rate:

For patients working six hours a day, one and one-half days for each month of service;

For patients working five hours a day, one and one-quarter days for each month of service;

For patients working four hours a day, one day for each month of service.

A month of service is defined as eighty or more hours of work which may be accumulated over any period of time to total eighty hours. No more than twelve months of service may be earned and credited in any calendar year, even if the total number of hours worked should exceed nine hundred sixty hours."

SECTION 3. Section 326-22, Hawaii Revised Statutes, is renumbered and amended to read:

"[§326-22 Labor by patients; employment of released and discharged patients. All outside labor, including yard work, may be performed by patients at any hospital, settlement, or place for the care and treatment of persons suffering from Hansen's disease, as far as patient labor is available, and all the patient laborers shall be compensated in accordance with the rates established in section 326-21.]

§326-21 Employment of patients. The department of health, with the consent of a patient and the patient's attending physician, may employ that patient to perform labor or service as may be approved by the attending physician, at any hospital, settlement, or place for the care and treatment of persons suffering from Hansen's disease.

When there are vacancies in positions, classified under chapters 76 and 77, which are of such nature that the health of the public or of other nonpatient staff members will not be in danger by their being filled by individuals living with or associating closely with active patients, at any hospital, settlement, or place exclusively for the care and treatment of persons suffering from Hansen's disease, employment preference shall be given to temporary release patients and discharged patients from any such hospital, settlement, or place; provided that the persons so hired shall be otherwise qualified under chapters 76 and 77.

Discharged patients who have been employed prior to December 30, 1960, under chapters 76 and 77 in accordance with the second paragraph of this section shall be eligible to receive the same rights and privileges as those enjoyed by temporary release patients employed under the second paragraph of this section."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

ACT 184

H.B. NO. 663

A Bill for an Act Relating to Victims.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Purpose.** The legislature declares its intent to have victims of crimes treated with fairness and respect by providing that they be informed, whenever possible, of the final disposition of the case by the police, prosecuting attorneys, and courts. Victims should also be notified, whenever possible, of actions resulting in the defendant or convicted person being released into the community. Furthermore, victims should be provided basic services whenever possible.

The legislature wishes to encourage the police, prosecuting attorneys, courts, victim assistance programs in each county, the department of social services and housing, and the paroling authority to fully cooperate with each other in assisting victims in providing information and assistance to victims. The legislature expects all agencies to serve and assist victims with respect and acknowledgement of their role and needs in the criminal justice system.

Therefore, as a first step the legislature has in this Act required written notification to victims in post-conviction actions.

SECTION 2. Chapter 706, Hawaii Revised Statutes, is amended as follows:

1. By adding a new section to part II to be appropriately designated and to read:

"§706- Notice of suspended sentence or probation. (a) Whenever the court suspends the sentence of a defendant convicted of an offense against the person as described in chapter 707, or of an attempt to commit such an offense, or places such defendant on probation without requiring the serving of a term of

imprisonment, the court shall provide written notice to each victim of such offense of the suspension of sentence or probation, as the case may be, whenever the victim has made a written request for such notice. Notice shall be given to the victim at the address given on the request for notice or such other address as may be provided to the court by the victim from time to time.

(b) Neither the failure of any state officer or employee to carry out the requirements of this section nor compliance with it shall subject the State or the officer or employee to liability in any civil action. However, such failure may provide a basis for such disciplinary action as may be deemed appropriate by competent authority."

2. By adding a new section to part IV to be appropriately designated and to read:

"§706- Notice of parole or final unconditional release. (a) As used in this section, the following terms have the following meanings:

"Offense against the person" means any of the offenses described in chapter 707 and includes any attempt to commit any of those offenses.

"Prisoner" or "parolee" mean a person who has been convicted of an offense against the person.

"Victim" means the person who was the victim of the offense against the person for which the prisoner or parolee was convicted and has submitted a written request for notice of the parole or final unconditional release of the prisoner or parolee.

(b) Upon placing a prisoner on parole or upon the release of a parolee from parole, the authority shall give written notice of the parole or release from parole to each victim.

(c) Upon the final unconditional release from a correctional facility of a prisoner who has not been paroled or earlier discharged, the department of social services and housing shall give written notice of the release to each victim.

(d) The authority or department, as the case may be, shall provide written notice to the victim at the address given on the request for notice or such other address as may be provided by the victim from time to time.

(e) Neither the failure of any state officer or employee to carry out the requirements of this section nor compliance with it shall subject the State or the officer or employee to liability in any civil action. However, such failure may provide a basis for such disciplinary action as may be deemed appropriate by competent authority."

SECTION 3. Section 353-22, Hawaii Revised Statutes, is amended to read as follows:

"§353-22 Establishment of conditional release centers for committed persons. (a) The director of social services may establish and operate facilities to be known as conditional release centers, either operated separately, or as part of community correctional centers.

(b) The purpose of such facilities is to provide housing, meals, supervision, guidance, furloughs, and other correctional programs for persons committed to the department of social services and housing and to give committed persons, in

selected cases, a chance to begin adjustment to life in a free society and to serve as a test of an individual's fitness for release on parole.

(c) The department shall notify the county prosecutors and police chiefs whenever a prisoner is admitted to participate in a work furlough program, conditional release program, or other similar programs and that such notification shall be made in writing to the county prosecutors and police chiefs listing the conditions of such work furlough programs, conditional releases, or such similar programs thirty days prior to the commencement of the work furlough program, conditional release, or other such program.

(d) Additionally, whenever the department admits a prisoner who has been convicted of an offense against the person as described in chapter 707, or of an attempt to commit such an offense, to a work furlough program, conditional release program, or other similar programs, it shall give written notice to each victim of the offense, who had made written request for such notice, of the admission of the prisoner to the program. Notice shall be given to the victim at the address given on the request for notice or such address as may be provided to the department by the victim from time to time. Neither the failure of any state officer or employee to carry out the requirements of this section nor compliance with it shall subject the State or the officer or employee to liability in any civil action. However, such failure may provide a basis for such disciplinary action as may be deemed appropriate by competent authority."

SECTION 4. Statutory material to be repealed is bracketed.¹ New material is underscored.²

SECTION 5. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

Notes

1. No bracketed material.
2. Edited pursuant to HRS §23G-16.5.

ACT 185

H.B. NO. 670

A Bill for an Act Relating to Disaster Relief.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that in the aftermath of Hurricane Iwa, the county of Kauai, which was hardest hit by the hurricane, incurred extensive damages to or loss of public property. According to the damage claims submitted by individual agencies to the Federal Emergency Management Agency (FEMA), the estimated replacement value of losses to county property on Kauai is about \$6 million. Although FEMA will absorb 75 per cent of the cost of replacing damaged and destroyed property, the county is required to put up the remaining 25 per cent which will amount to about \$1.5 to \$2 million.

According to federal regulations, all repair work must be completed within 18 months of the disaster. Kauai, therefore, must act expeditiously to ensure completion of all required repair and reconstruction. The problem, however, is that

the county of Kauai does not have sufficient funds in its treasury to cover its share of the cost and without it the bidding and construction process cannot begin.

The legislature finds that the county of Kauai is not in a position to expend \$2 million because county revenues have been substantially reduced. For instance, revenues from tourism, which averaged about \$17.5 million a month before the hurricane, have declined by as much as 75 per cent. Low crop yields, due to hurricane damages, have also caused a decline in revenues generated from the sugar and papaya industries. Moreover, the crippling of the tourism and agricultural industries on Kauai contributed to the unemployment of nearly 1,400 workers. Another factor affecting county revenues is that damage to private property has resulted in the lowering of property valuations and a reduction in assessment revenues.

The legislature is deeply concerned about Kauai's plight and believes that in such an extraordinary situation as this, it is proper for the State to immediately provide emergency assistance to the county as it is struggling to recover from the effects of the hurricane. The legislature also believes that the governor shares its concern and will recommend the immediate passage of an emergency appropriation measure for the county of Kauai.

It is, therefore, the purpose of this Act to appropriate sufficient funds to ensure that Kauai is able to meet the federal matching requirement to immediately proceed with the repair and reconstruction of county property.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,500,000, or so much thereof as may be necessary, to cover the county of Kauai's share of the cost of repairing and reconstructing county property damaged or destroyed by Hurricane Iwa. Any unexpended or unencumbered balance of the appropriation made by this Act as of the close of business on June 30, 1984, shall lapse into the state general fund.

SECTION 3. The sum appropriated shall be expended by the county of Kauai.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

ACT 186

H.B. NO. 1102

A Bill for an Act Relating to Family Courts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 586-5, Hawaii Revised Statutes, is amended to read as follows:

"[§586-5] Period of order; hearing. A temporary restraining order granted pursuant to this chapter shall remain in effect at the discretion of the court, not to exceed thirty days. On the earliest date that the business of the court will permit, but no later than fifteen days from the date the temporary restraining order is granted, the court shall, after giving due notice to all parties, hold a hearing on the application requiring cause to be shown why the order should not continue. In the

event that service has not been effected, the court may set a new date for the hearing. All parties shall be present at the hearing and may be represented by counsel. If after hearing all relevant evidence, the court finds that a further period of separation of the parties is necessary to prevent domestic abuse or a recurrence of abuse, the court may order that a protective order be issued for such further period as the court deems appropriate, not to exceed [ninety days] one hundred-eighty days from the [dated] date of its initial order.

The protective order may include all orders stated in the temporary restraining order and may provide such further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation with regard to minor children of the parties and orders to either or both parties to participate in treatment or counseling services."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

ACT 187

H.B. NO. 1266

A Bill for an Act Relating to Annulment, Divorce, and Separation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 580-10, Hawaii Revised Statutes, is amended to read as follows:

"§580-10 Restraining [order.] orders; appointment of master. [When-
ever it is made to appear to the court after the filing of any complaint, that a party
thereto may dispose or encumber property, or any part thereof, the court may issue a
restraining order to prevent such disposal or encumbrance, and shall enjoy in respect
thereof the powers pertaining to a court of equity.] (a) When a complaint for
annulment, divorce, or separation, is filed in this state, the court, on an application
by either party, supported by affidavit or a statement made under penalty or perjury,
without a hearing, may enjoin and restrain each of the parties to that action from
transferring, encumbering, wasting, or otherwise disposing of any of their property,
whether real, personal, or mixed, over and above current income, except as
necessary for the ordinary course of a business or for usual current living expenses,
without the consent and concurrence of the other party to such action for divorce, or
further specific order of the court. Where such restraining orders are issued against
the other party to the action, such person shall be served promptly with the order and
shall be entitled to a prompt hearing to show cause why such order should not be
enforced.

(b) In all actions for annulment, divorce, or separation, the court shall
have the power to issue such restraining orders against a person or persons not a
party to the action, as shall be reasonably required during the pendency of such
action, to preserve the estates of the parties. Where such restraining orders are
issued against a person or persons not a party to the action, such persons shall be

promptly served with the order and shall be entitled to a prompt hearing within a reasonable time to show cause why such order should not be enforced.

(c) In all actions for annulment, divorce, or separation, the court shall have the power to appoint a master, or masters, to make preliminary findings and to report to the court on any issue. The written reports of a master shall be available to interested parties and may be received in evidence if no objection is made; or if objection is made, may be received in evidence provided the person or persons responsible for the reports are available for cross-examination as to any matter contained therein. When a report is received in evidence, any party may introduce other evidence supplementing, supporting, modifying, or rebutting the whole or any part of the report."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

ACT 188

H.B. NO. 1317

A Bill for an Act Relating to Vehicle Size and Weight.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-34, Hawaii Revised Statutes is amended by amending subsection (c) to read as follows:

"(c) Length:

- (1) No single motor vehicle or other power vehicle having a total overall length greater than forty feet, including load, shall be operated or moved upon any public road, street, or highway within the State, except as hereinafter provided.
- (2) No truck-tractor and semitrailer having a total overall length greater than sixty feet, including load, shall be operated or moved upon any public road, street, or highway, other than interstate highways and certain qualifying federal aid highways as designated by the director of transportation, within the State, except as hereinafter provided; provided that for truck-tractors and semitrailers used for agricultural purposes, or articulated buses for public transit purposes, the total combined length of the truck-tractor and semitrailer or articulated bus shall not exceed sixty-five feet in length; provided further that the length of the semitrailer shall not exceed forty-five feet in length.
- (3) No combination of motor vehicles or other power vehicles coupled together shall consist of more than two units and no such combination of vehicles having a total overall length greater than sixty-five feet, including load, shall be operated or moved upon any public road, street, or highway other than interstate highways and certain qualifying federal aid highways as designated by the director of transportation, within the State, except as hereinafter provided. A truck-tractor and

semitrailer shall be regarded as a single unit when determining the number of units in a combination.

- (4) No motor vehicle, self-propelled construction or farm equipment, trailer, or semitrailer shall be operated upon any public road, street, or highway within the State if it is carrying or otherwise has projecting to the front or rear, a load, boom, mast, or other projecting structure or attachment unless:
 - (A) With respect to self-propelled construction or farm equipment,
 - (i) The length of the equipment measured on a horizontal axis, including the projection, is not greater than forty feet;
 - (ii) The projection is either held securely in place or is controlled by the driver or an operator;
 - (iii) The projection does not obstruct the driver's vision;
 - (iv) The projection does not impair the driver's ability to control the equipment;
 - (v) The projection beyond the front tires is at least seven feet above the roadway surface;
 - (vi) The projection does not extend more than four feet past the extremity of the piece of equipment, or if it extends more than four feet, an escort vehicle is provided by the owner or operator either to the front or to the rear of the projection to call attention to the projection; or
 - (B) With respect to a motor vehicle, or a motor vehicle with attached trailer or semitrailer,
 - (i) The overall length of a motor vehicle including the projection, is not greater than forty feet or the overall length of the motor vehicle with attached trailer or semitrailer, including the projection, is not greater than sixty feet[;] except that this limitation on a motor vehicle with attached trailer or semitrailer, including the projection, shall not be applicable on interstate highways and certain qualifying federal aid highways, as designated by the director of transportation;
 - (ii) The projection is either held securely in place or is controlled by the driver or an operator;
 - (iii) The projection does not obstruct the driver's vision;
 - (iv) The projection does not impair the driver's ability to control the equipment;
 - (v) The projection beyond the front tires is at least seven feet above the roadway surface;
 - (vi) The projection does not extend more than four feet past the extremity of the trailer or semitrailer, or, if it extends more than four feet, an escort vehicle is provided by the owner or operator either to the front or to the rear of the projection to call attention to the projection.
- (5) The foregoing limitations upon length shall not apply to vehicles transporting pipe, poles, timbers, reinforcing steel, structural steel, or

other objects of a structural nature which cannot be readily dismembered; provided that when transported by night every such vehicle shall be equipped with a sufficient number of clearance lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load."

SECTION 2. Section 291-39, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Notwithstanding any other provisions of this chapter, no enforcing officer shall issue a citation for violation of the provisions set forth in section 291-35 unless the violator exceeds the applicable maximum weight by more than five per cent[.]; except that this subsection shall not apply to interstate highways."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

ACT 189

H.B. NO. 1342

A Bill for an Act Relating to Penal Responsibility and Fitness.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 704-413, Hawaii Revised Statutes, is amended to read as follows:

"§704-413 Conditional release; application for modification or discharge; termination of conditional release and commitment. (1) Any person released on condition pursuant to section 704-411 shall continue to receive psychological or psychiatric treatment and care until discharged from conditional release. The person shall follow all prescribed treatments and take all prescribed medications according to the instructions of the person's treating mental health professional. If any mental health professional treating any conditionally released person believes the person is either not complying with the requirements of this section, or there is other evidence that hospitalization is appropriate, the mental health professional shall report the matter to the probation officer of the conditionally released person. The probation officer may order the conditionally released person to be hospitalized for a period not to exceed seventy-two hours if they have probable cause to believe the person has violated the requirements of this subsection. No person shall be hospitalized beyond the seventy-two hour period unless a hearing has been held pursuant to subsection (3).

[(1)] (2) Any person released on condition pursuant to section 704-411 may apply to the court ordering the conditional release for discharge from or modification of the order granting conditional release on the ground that he may be discharged or the order modified without danger to himself or to [the person or property of] others. The application shall be accompanied by a supporting affidavit of a qualified physician. A copy of the application and affidavit shall be transmitted

to the prosecuting attorney of the county in which the person is confined and to any persons supervising his release and the hearing on the application shall be held following notice to [said] such persons. If the determination of the court is adverse to the application, such person shall not be permitted to file further application until one year has elapsed from the date of any preceding hearing on an application for modification of conditions of release or for discharge.

[(2)] (3) If, [within five years] at any time after the order pursuant to section 704-411 granting conditional release, the court shall determine, after hearing evidence, that the conditions of release have not been fulfilled or that for the safety of such person or [for the safety of the person or property of] others his conditional release should be revoked, the court may forthwith modify the conditions of release or order the person to be committed to the custody of the director of health, subject to discharge or release only in accordance with the procedure prescribed in section 704-412."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

ACT 190

H.B. NO. 1567

A Bill for an Act Relating to the Employees' Retirement System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 88-122, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The actuarial valuations made for years ending on June 30, 1980, 1981, [and] 1982, 1983, and 1984 shall be based on a seven per cent investment yield rate and such tables and factors as are adopted by the board of trustees for actuarial valuations of the system. [The actuarial valuations made for years ending on June 30, 1983 and thereafter shall be based on a four and one-half per cent investment yield rate and such tables and factors as are adopted by the board of trustees for actuarial valuations of the system.]"

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

ACT 191

H.B. NO. 1201

A Bill for an Act Relating to Industrial Loan Companies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 408-2.1, Hawaii Revised Statutes, is amended to read as follows:

"§408-2.1 Exclusiveness of name. (a) No person, firm, company, association, fiduciary, partnership, or corporation, either domestic or foreign, unless lawfully licensed and authorized to do business in this State under this chapter and [is] actually engaged in carrying on an industrial loan business shall transact any business under any name or title which contains the words "finance", "financial", "industrial loan", or words of similar import, or use any name or sign or circulate or use any letterhead, billhead, circular, or paper whatever, or advertise or represent in any manner which indicates or reasonably implies that the business is the character or kind of business carried on or transacted by an industrial loan company under chapter 408. The bank examiner may examine the accounts, books, and records of any person, company, association, fiduciary, partnership, or corporation to ascertain whether this section has been or is being violated.

(b) Any person violating this section shall forfeit to the State \$100 a day for every day or part thereof during which the violation continues. Upon action brought by the bank examiner or any industrial loan company, the court may issue an injunction restraining any person, firm, company, association, fiduciary, partnership, or corporation or agent from further violating this section or from further acting in any way or manner as to imply or lead the public to believe that its business is of an industrial loan character.

(c) This section shall not apply to any person, firm, company, association, fiduciary, partnership, or corporation registered to do business in the State under the name, or title, or descriptive term which contains the words, "finance", "financial", or "industrial loan", on or before [June 12, 1982.] Any form or type of advertisement used by such person, firm, company, association, fiduciary, partnership, or corporation shall contain a statement in the same size print as its name, or title, or descriptive term that the company is not an industrial loan company under chapter 408.

(d) This section shall not apply to the use of an academic degree or a professional designation given by an accredited institution of higher education to an individual upon completion of the requirements for such degree or designation."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

A Bill for an Act Relating to Home Care Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Purpose.** The legislature finds and declares that the provision of comprehensive extended home services for the chronically ill and disabled residents of the State of Hawaii is a priority concern. The development of more

economical methods of caring for this growing population group as an alternative to the construction of additional institutional facilities should be a primary focus of the State's action.

Coordinated extended home services rendered to patients in their homes reduce the possibility of prolonged institutionalization or the inappropriate utilization of scarce institutional beds, as well as the concomitant high costs and other associated adverse social and medical implications of institutionalization.

The legislature intends that there be a public commitment to the appropriate provision and expansion of extended home services which will provide a single point of entry and access to a comprehensive and coordinated program of care in the home for Hawaii's growing aged and chronically ill population.

SECTION 2. Definitions. For the purpose of this Act:

"Advisory council" means a group of appointed community members who meet at regularly appointed times to provide advice and recommendations relative to the operation of the project.

"Certified home health agency" means an agency licensed by the State to provide health services, such as skilled nursing, home health aides, and physical therapy in the patient's home.

"Comprehensive assessment" means the evaluation of the patient's medical, social, and environmental needs.

"Demonstration project" means the nursing home without walls demonstration project.

"Extended home services" means the provision of a broad range of services which will ensure the patient's safety and well-being at home over an indefinite period of time.

"Plan of care" means a written plan, including goals, objectives, and methodology, designed to meet the service requirements of the patient, caregiver, or both, as approved by the physician.

"Waiver" means an intentional relinquishment of certain rights or obligations.

SECTION 3. Establishment of a nursing home without walls demonstration project. (a) A nursing home with walls demonstration project shall be established in the department of social services and housing, medical care administration services, to demonstrate the provision of extended home services for chronically ill and disabled patients who are certified as requiring skilled nursing or intermediate level care.

(b) The provision of services of the demonstration project shall be limited to the island of Oahu.

(c) The duration of the demonstration project shall be from July 1, 1983, through June 30, 1985.

(d) The number of patients who are being actively served by the demonstration project shall not surpass two hundred at any point in time during the duration of the demonstration project.

(e) A ceiling shall be placed on the demonstration project expenditures, limiting total expenditures to not more than seventy-five per cent of the Medicaid cost to maintain the demonstration project's approved number of patients at their

appropriate level of institutional care. The cost of Medicaid for institutional care which shall be the basis for the expenditure ceiling shall be determined by the department of social services and housing.

(f) A ceiling shall be placed on individual patient care expenditures so that the annual cost of patient care through the demonstration project does not exceed seventy-five per cent of the annual Medicaid cost to provide the appropriate level of care for the patient in either a skilled nursing or intermediate care facility. If there is more than one patient in a family, the expenditure ceilings of each patient shall be added together and the costs of their care combined and evaluated against the sum.

(g) If the patient does not utilize the entire funds available for the patient's care, "paper credits" shall be accrued on the patient's behalf to be utilized during a period of higher service requirements.

SECTION 4. Determination of patient eligibility for participation in the demonstration project. (a) Patients shall meet the following eligibility criteria:

- (1) They shall be certified by the department of social services and housing to be in need of skilled nursing or intermediate level institutional care;
- (2) They shall be determined by the department of social services and housing to be eligible for Medicaid assistance; and
- (3) They shall be deemed by their personal physician as able to be cared for at home with the provision of appropriate services in the home.

(b) Patients certified as in need of skilled nursing or intermediate care shall be notified by the department of social services and housing at the time of their certification of the availability of extended home services through the demonstration project.

(c) Patients approved for the demonstration project shall receive a:

- (1) Comprehensive assessment of their medical, social, and environmental needs;
- (2) Written plan of care listing the types, frequency, and duration of all services which are necessary to maintain the patient at home;
- (3) Budget based on the services defined in the plan of care; and
- (4) Periodic review of their status to assure continued medical and financial eligibility for service.

SECTION 5. Provision of services. (a) Services which shall assure the safety and well-being of the patient shall be provided in the patient's home or in the home of a responsible relative or other adult.

(b) The demonstration project shall provide the services in the most economic manner feasible, either through:

- (1) Informal care providers such as family members, friends or neighbors who regularly provide specific services without remuneration and not as a part of any organized volunteer activity;
- (2) Contracts with agency providers, such as certified home health agencies and public or private nonprofit health and social service agencies;
- (3) Contracts with individual providers, such as physicians, nurses, and therapists who privately enter into a contract to provide services for the demonstration project; or

- (4) Project personnel, such as social workers and nurses who are hired by the demonstration project to provide specific services.

SECTION 6. Advisory council. The director of social services shall appoint an advisory council of qualified community members to:

- (1) Review policies and procedures pertaining to the delivery of services and recommend such policies to the Medicaid administrator;
- (2) Review patient care provided by the demonstration project and submit findings and recommendations to the demonstration project administrator;
- (3) Review the performance of the service providers and the contractual arrangements of the demonstration project and submit findings and recommendations to the demonstration project administrator;
- (4) Review recommendations and complaints received from patients of the program and their family members and recommend appropriate corrective action to the demonstration project administrator; and
- (5) Assist with other activities of the demonstration project as requested by the department.

SECTION 7. Annual report. The director of social services shall report to the legislature at least twenty days prior to the convening of each regular session during the period of the demonstration project. The annual report shall include a comprehensive report on the status of the demonstration project, and recommendations for amendments to the law and to the rules of the department pertaining to the demonstration project.

SECTION 8. Wavier of requirements. The demonstration project shall not be subject to licensing or certification requirements of the department of health or the health planning and development agency.

SECTION 9. Rules. The department of social services and housing shall adopt rules in accordance with chapter 91, Hawaii Revised Statutes, for the purpose of this Act.

SECTION 10. Personnel exempt. Personnel employed for the demonstration project shall not be subject to the provisions of chapters 76 and 77, Hawaii Revised Statutes. The terms of service for these personnel shall begin on July 1, 1983, or as soon thereafter as deemed appropriate by the department of social services and housing, and shall not continue beyond June 30, 1985.

SECTION 11. This Act shall take effect on July 1, 1983.

(Approved June 6, 1983.)

ACT 193

H.B. NO. 809

A Bill for an Act Relating to Occupational and Career Information.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

“CHAPTER OCCUPATIONAL AND CAREER INFORMATION

PART I. FINDINGS AND PURPOSE

§ -1 **Findings.** The legislature finds that there is a need to coordinate the efforts of a variety of employment-related agencies, programs, and activities, for the purpose of strengthening employment, training, and educational planning and delivery of services. Promoting this coordination can be achieved best through the development of an occupational and career information planning base. An Hawaii occupational information system could meet the common needs of vocational education programs and employment and training programs if it contained data on occupational demand and supply based on uniform definitions, standardized estimating procedures, and common classification codes. Such occupational information must be geared to the career decision-making process of youth, as well as to the administrative needs of educational and training planning. The delivery of career information is needed to improve the match of youth career desires with available and anticipated labor demand.

§ -2 **Purpose.** It is the purpose of this chapter to provide for the development and delivery of occupational and career information on a statewide basis. Such information is to be used for the purpose of employment, training, educational, and career planning with a special view toward improving the relationship of current and projected supply and demand in the Hawaii work force. It is also the purpose of this chapter to provide for the means to develop and deliver occupational and career information through an overall Hawaii occupational information system composed of a career information delivery system and an occupational employment planning system. Additionally, coordination is to be provided for in the development, dissemination, and application of occupational and career information for the purposes of occupational, educational, employment, and training planning and for the delivery and use of career information in educational and occupational decision making by youth, trainees, and job seekers. Although other agencies may operate programs to implement these purposes and authorities, a coordinating committee will facilitate the integration of occupational information into program planning.

PART II. HAWAII STATE OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

§ -11 **Occupational information coordinating committee, establishment.** The Hawaii state occupational information coordinating committee is established and shall be composed of representation from at least the state board for vocational education, the department of labor and industrial relations, the state employment and training council, the state vocational rehabilitation agency, the department of education, and the University of Hawaii. Membership shall not be restricted to these agencies, but shall not exceed twenty-five members with one member per agency. Members shall be appointed by the administrators or directors

of these agencies. The committee shall be placed in the department of labor and industrial relations for administrative purposes only.

§ -12 **Powers and duties.** The Hawaii state occupational information coordinating committee shall coordinate the development, dissemination, and application of occupational and career information for the purposes of occupational, educational, and employment training planning and for the delivery and use of career information in educational and occupational decision making by youth, trainees, and job seekers. Any state agency represented on the coordinating committee may operate programs to implement these purposes. The Hawaii state occupational information coordinating committee shall facilitate the integration of occupational information into program planning.

§ -13 **Limitations.** This chapter is to comply with the purposes and intent of P.L. 94-482 and P.L. 97-300 which mandate the establishment of state occupational information coordinating committees and state occupational information systems. Nothing in this chapter shall restrict the powers granted in this chapter to only those purposes stated in such public laws.

§ -14 **Advisory committees.** The Hawaii state occupational information coordinating committee shall consult with potential users and donors of occupational and career information to strengthen the collection of data and the development of a uniform occupational information system. To this end, an advisory committee structure shall be used consisting of representation from educational institutions, social services and training agencies, educational advisory commissions and committees, health and planning agencies, private sector councils and associations, unions, and other relevant parties. Use of advisory subcommittees for technical input to committee considerations is encouraged.

§ -15 **Personnel.** The department of labor and industrial relations may establish positions and hire necessary personnel for the purposes of this part without regard to chapters 76 and 77.

PART III. HAWAII OCCUPATIONAL INFORMATION SYSTEM

§ -21 **Purpose.** An occupational information data base can provide information for employment, training, and educational program planning, as well as provide input for career planning and job search purposes. The system shall use data collection procedures established by various programs for input and apply standardized estimating procedures for developing current and projected labor market supply and demand data. The system shall deliver the necessary occupationally related information to a widely divergent user population, including planners, students, trainees, and job searchers, in appropriate formats whether manual or computer-based. The overall occupational information system shall be designed to meet the needs of youth and adult career planners and job seekers as well as the needs of educational, training, and employment program planners for planning data on projected occupational supply and demand.

§ -22 **Occupational information system.** The Hawaii state occupational information coordinating committee shall facilitate the development, implementation, and application of the Hawaii occupational information system. Other agencies may operate programs related to implementing and applying the occupational information system but the Hawaii state occupational information coordinating committee shall coordinate the system.

§ -23 **Responsibilities.** In consultation with the Hawaii state occupational information coordinating committee and other potential users, the department of labor and industrial relations shall be responsible for the preparation of occupational employment demand information concerning projected needs for occupational skills in Hawaii's labor market. The department of education and University of Hawaii systems shall be responsible for the production of uniform public and private educational supply data concerning students in courses related to each occupational category in consultation with the committee and other potential users.

The state employment and training council in consultation with the committee and other potential users shall be responsible for the production of federal training supply data concerning trainees enrolled and completing training programs in each occupational category. The department of social services and housing shall be responsible for preparing information concerning training activities and other rehabilitative data required by the occupational information system in consultation with the committee and other potential users.

All of the identified entities in this section shall jointly develop and produce, to the extent feasible, other data required of the occupational information system.

PART IV. HAWAII CAREER INFORMATION DELIVERY SYSTEM

§ -31 **System's powers and duties.** The Hawaii career information delivery system shall be a part of the Hawaii occupational information system. It shall develop and deliver occupational and educational information used for career choice and job search purposes. The information used in the Hawaii career information delivery system shall be obtained primarily from the Hawaii occupational information system and shall be available to all regions and people of the State. Career information shall be delivered to meet user needs through schools, training sites, employment service offices, and social service offices but shall not be restricted to these user sites.

§ -32 **Organization.** The delivery of career information on a statewide basis shall be through the Hawaii career information delivery system program, operated by the department of labor and industrial relations and managed by the Hawaii state occupational information coordinating committee, to provide for the maximum input of user needs and concerns practicable.

§ -33 **Personnel.** The department of labor and industrial relations may establish positions and hire necessary personnel for the purposes of this part without regard to chapters 76 and 77.

**PART V. HAWAII OCCUPATIONAL
EMPLOYMENT PLANNING SYSTEM**

§ -41 **Powers and duties.** The Hawaii occupational employment planning system shall be part of the Hawaii occupational information system. It shall develop and deliver occupational employment demand and supply information used for planning purposes by employment, training, vocational education, vocational rehabilitation, economic development, and other agencies as well as private industry and individuals. The system shall be based on standardized and nonduplicative techniques and processes to the maximum extent practicable.

§ -42 **Organization.** The development of occupational employment planning information shall be coordinated by the Hawaii state occupational information coordinating committee and shall be carried out through the responsibilities defined in section -23.

§ -43 **Occupational employment statistics program.** The department of labor and industrial relations shall conduct an occupational employment statistics program to develop occupational demand projections in fulfilling the responsibilities of section -23.

§ -44 **Labor market information development program.** The department of labor and industrial relations shall conduct a labor market information development program to develop employment and unemployment demographics and to conduct labor market area industrial economic analysis in fulfilling the responsibilities of section -23."

SECTION 2. This Act shall take effect on July 1, 1983.

(Approved June 6, 1983.)

ACT 194

S.B. NO. 833

A Bill for an Act Relating to the Job Training Partnership Act of 1982.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. On October 13, 1982, the President signed into law the Job Training Partnership Act (JTPA). The new statute replaces the Comprehensive Employment and Training Act (CETA). The purpose of this Act is to establish the administrative framework necessary for implementing JTPA.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

**"CHAPTER
JOB TRAINING PARTNERSHIP ACT**

§ -1 **Staffing for the Hawaii job training coordinating council.** The positions of executive director and program assistant shall be established to serve as staff to the Hawaii job training coordinating council. The staff members shall be hired by and serve at the pleasure of the council without regard to chapters 76 and 77. The persons hired shall be entitled to participate in any employee benefit plan

normally allowed to civil service employees but shall not be considered civil service employees.

§ -2 **Staffing for the Job Training Partnership Act.** Employees hired in an exempt status by the department of labor and industrial relations under the Comprehensive Employment and Training Act shall be continued under the implementation of the Job Training Partnership Act of 1982, exempt from chapters 76 and 77."

SECTION 3. This Act shall take effect upon approval.

(Approved June 6, 1983.)

ACT 195

S.B. NO. 834

A Bill for an Act Relating to Dislocated Workers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER
DISLOCATED WORKERS**

§ -1 **Findings and purpose.** The legislature finds that there is a need for employment and training assistance for dislocated workers in Hawaii.

§ -2 **Definitions.** As used in this Act:

"Department" means the department of labor and industrial relations.

"Director" means the director of labor and industrial relations.

"Dislocated workers" means an individual who:

- (1) Has been terminated or laid-off or who has received a notice of termination or lay-off from employment, is eligible for or has exhausted entitlement to unemployment compensation, and is unlikely to return to the person's previous industry or occupation;
- (2) Has been terminated or who has received a notice of termination of employment, as a result of any permanent closure of a business; or
- (3) Is a long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including any older individual who may have substantial barriers to employment by reason of age.

§ -3 **Employment opportunities.** The director shall identify job opportunities that exist within or outside the labor market area for which dislocated workers could be retrained and assisted in securing and whether assistance and training opportunities for such employment exist or could be provided within the labor market area.

§ -4 **Dislocated workers program.** The director shall establish a program to assist dislocated workers to obtain employment through assistance, training, and related employment services which may include but not be limited to:

- (1) Job search assistance;

- (2) Job development;
- (3) Training in job skills;
- (4) Supportive services including commuting assistance, day care for dependents, and financial, career, and personal counseling;
- (5) Pre-layoff assistance;
- (6) Relocation assistance;
- (7) Mediation services or other programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of major business closures;
- (8) Added costs to employers; and
- (9) Stipends and allowances.

§ -5 **Relocation assistance.** The director may provide relocation assistance if:

- (1) The dislocated worker cannot obtain employment within commuting distance; and
- (2) The individual has secured suitable long duration employment or obtained a bona fide job offer in a relocation area within the State.

§ -6 **Training costs to employers.** Added costs to employers shall be restricted to increased costs incurred by employers when they assume the responsibility for assisting or training dislocated workers. Such costs may include those incurred for assistance and training supervision, for maintaining assistance or training records, for monitoring progress of training and implementing performance standards, for the additional costs of production time allocated for training on the job, and for similar functions essential to dislocated worker assistance and training.

§ -7 **Labor organization consultation.** Any activity under this chapter which provides service to a substantial number of members of a labor organization shall be conducted only after full consultation with the appropriate labor organization.

§ -8 **Coordination with federal programs.** The director shall develop plans for the implementation of this program which shall include appropriate provisions for the coordination of program activities with related state and federal programs and which shall document the requirements of section -3 and describe those activities to be carried out."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

A Bill for an Act Relating to the Department of Social Services and Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-51, Hawaii Revised Statutes, is amended to read as follows:

"§346-51 Public assistance and child welfare services administered by department. The department of social services and housing shall administer public

assistance and child welfare services in the several counties except for payments administered under the Federal Supplemental Security Income Program or its successor agency. No person shall be denied the right to petition the department for additional assistance as established under section [346-53(i).] 346-53(h).”

SECTION 2. Section 346-53, Hawaii Revised Statutes, is amended to read as follows:

“§346-53 Determination of amount of assistance. (a) The director shall adopt rules pursuant to chapter 91 concerning the determination of public assistance grants under this chapter. Public assistance grants shall be sufficient to maintain a standard consistent with the chapter. In granting public assistance to a person under this chapter the department may take into account part or all of the needs of the person’s dependents or those persons essential to his well being[,] provided that they are also eligible for public assistance. In the event that a public assistance grant to a recipient has taken into consideration only part of the needs of other eligible persons this public assistance grant shall be without prejudice to a separate public assistance grant to such other eligible persons or any of them, as may be proper to meet their remaining needs and in compliance with this chapter.

(b) The maximum basic needs allowance which the department shall initially pay a recipient considering income and resources in accordance with this chapter shall be \$100 plus an additional \$44 for each additional person whose needs have been taken into account by the department. Beginning January 1, 1978 and on or before January 1 of each odd-numbered year thereafter, the director shall submit a report to the legislature indicating the amount of additional moneys required to implement a cost of living increase for the adjusted basic needs allowance equal to the annual percentage increase, rounded to the nearest dollar:

- (1) In the average weekly wage in covered employment as computed by the director of labor and industrial relations pursuant to section 383-22, or
- (2) In the consumer price index for Hawaii as computed by the United States Department of Labor, whichever is lowest.

The director shall request that such amount be reflected in that portion of the executive budget relating to the department. If additional funds are appropriated for a cost of living adjustment, then the adjusted basic needs allowance shall be adjusted to reflect the appropriation. The department shall pay a recipient the maximum basic needs allowance if the department determines that his needs are not reduced by his income or resources.

[(c) If a child is eligible for public assistance under section 346-55, and if the child lives in a home or a place of residence maintained as a home by a relative specified under section 346-55, and if such a relative is a person essential to the child’s well being, then the department shall pay in behalf of each child the basic needs allowance and shelter allowance as prescribed in this chapter. The department shall make such payment regardless of whether such relative does or does not receive public assistance.

(d)] (c) For recipients in nondomiciliary shelter, the shelter allowance (to include rent and utilities) shall be for cost paid, up to the maximum as provided in the following schedule:

- (1) \$175 for 1 person;
- (2) \$215 for 2 persons;
- (3) \$240 for 3 persons;
- (4) \$265 for 4 persons;
- (5) \$290 for 5 persons;
- (6) \$320 for 6 persons;
- (7) \$360 for 7 or more persons.

[(e)] (d) The director shall determine the amount of maximum shelter allowance for each recipient who is residing in a residential treatment facility. This amount shall be equal to the cost to each such facility for providing shelter to such recipient; provided that the amount shall not include any cost of such facility normally attributed to determining the basic needs allowance or for providing treatment and rehabilitation to the recipient. No maximum shelter allowance amount determined by the director shall exceed the amount under subsection [(d).]

(c). The director shall adopt the criteria for determining the maximum shelter allowance under this subsection by rule in accordance with chapter 91; provided that the actual amounts shall not be required to be adopted by rule.

[(f)] (e) The director shall pursuant to chapter 91 determine the rate of payment for the different levels of domiciliary care provided to recipients eligible for Federal Supplemental Security Income or public assistance in accordance with state standards.

The rate of payment at which level a recipient enters an adult family boarding home or a care home licensed pursuant to sections 346-91 and 321-15.6, shall remain the same for as long as the recipient resides in that adult family boarding home or care home. The rate of payment may be raised if the recipient's condition so requires, or by rule of the department in accordance with this subsection; provided that notwithstanding the rate of payment at the time of entry, the department shall ensure that the recipient shall receive the quality of care consistent with the level of care as determined by the department; provided further that if the operator does not provide the quality of care consistent with the needs of the individual as determined by and to the satisfaction of the department, the department may reduce the rate of payment, or adjust the level of care, or remove the recipient to another facility. The department shall handle abusive practices under this section in accordance with chapter 91.

Nothing in this subsection shall allow the director to remove a recipient from an adult family boarding home, care home, or other similar institution if the recipient does not desire to be removed and the operator thereof is agreeable to the recipient remaining therein, except where the recipient requires a higher level of care than provided thereby, or where the recipient no longer requires any domiciliary care.

[(g)] (f) The department shall establish rules pursuant to chapter 91 for supplement payments under the Federal Supplemental Security Income Program or its successor agency, such that a recipient's payments and benefits do not exceed the total of the maximum basic needs allowance and shelter allowance as provided by this chapter; provided that if a recipient sharing housing with a person receiving a shelter allowance from the department could qualify as an essential person to or

dependent of such person, then the recipient shall be considered to live in free shelter. A recipient renting private housing or purchasing the home he lives in shall receive a shelter allowance for cost paid, up to the maximum established in subsection [(d).] (c).

[(h)] (g) The department shall pay rental and utility (to include gas, electricity, and water only) deposits once only for any person eligible for financial assistance by the department. However, under extraordinary circumstances as determined by the department, an additional rental [and/or] deposit, utility deposit, or both, may be granted.

[(i)] (h) Any recipient may petition the department for additional assistance when his need is due to emergencies caused by seismic wave, tsunami, hurricane, volcanic eruption, typhoon, earthquake, flood, or fire determined by the director to have caused losses as to require and justify additional assistance from the State. In addition any recipient may petition the department for additional assistance for the replacement or repair of household appliances. Such additional assistance shall be paid on an emergency basis, as determined by the department, to meet the cost of replacing or repairing household appliances. If the cost of repairs of household appliances is less than one-half the unit cost of the item, the department shall pay for the cost of repairs. If the cost of repairs of household appliances is more than one-half the unit cost of the item, the department shall replace the household appliance; provided that the replacement cost shall not exceed \$350. For the purposes of this subsection "household appliances" means a refrigerator or a range.

The department shall establish an emergency fund, not to exceed one per cent of total financial assistance from state funds required by this chapter in the previous fiscal year. The director shall adopt rules pursuant to chapter 91 for determining in which cases to grant lump sum payments to recipients petitioning for additional assistance."

SECTION 3. Section 346-55, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved June 6, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 197

H.B. NO. 337

A Bill for an Act Relating to Motor Vehicles and Mopeds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-133, Hawaii Revised Statutes, is amended to read as follows:

"§286-133 Unlawful to permit unauthorized person to drive. No person shall authorize or knowingly permit a motor vehicle or moped owned by [him] that

ACT 198

person or under [his] that person's control to be driven upon any highway by any person who is not authorized [hereunder or in violation of this part.] under law to drive the motor vehicle or moped."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1983.)

ACT 198

H.B. NO. 338

A Bill for an Act Relating to the University of Hawaii College of Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 304-20, Hawaii Revised Statutes, is amended to read:

"§304-20 College of education. The college of education shall be affiliated with the university and shall be under the jurisdiction and management of the board of regents. The board may grant appropriate degrees to properly qualified graduates of the college of education. In the matter of the curriculum the university authorities may obtain the approval of the department of education. The purpose of the college of education shall be to train teachers to meet the requirements of the public schools of the State.

There is created an advisory committee to be known as the teacher education coordinating committee to identify, study, take action, or make recommendations on matters of education of common interest to the department of education and institutions of higher learning in Hawaii. The membership of the committee shall include the superintendent of education and the dean of the college of education of the University of Hawaii, who shall serve in alternate years as chairman of the committee with the superintendent acting as the first chairman. The membership of the committee shall include a representative of each accredited teacher training institution in Hawaii. In addition, the superintendent of education and the dean of the college of education of the University of Hawaii may each appoint other members to the committee; provided that the dean of the college of education of the University of Hawaii shall appoint at least two members of the committee from the University of Hawaii who are not within the college of education. The committee shall meet at least [twelve] six times within any [fiscal] calendar year to (1) work out problems related to the development of strong teacher training programs at accredited institutions of higher learning in Hawaii, and (2) to identify, study, and discuss educational problems or other educational matters of interest to the committee and to develop findings and make recommendations for the improvement of education in Hawaii. The committee shall submit an annual report on its activities to the legislature and may include therein recommendations for legislative consideration."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1983.)

ACT 199

H.B. NO. 467

A Bill for an Act Relating to Children.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-41, Hawaii Revised Statutes, is amended to read as follows:

"§571-41 Procedure in children's cases. (a) Cases of children in proceedings under section 571-11(1) and (2) shall be heard by the court separate from hearings of adult cases and without a jury. Stenographic notes or mechanical recordings shall be required as in other civil cases in the circuit courts, unless the parties waive the right of such record or the court so orders. The hearings may be conducted in an informal manner and may be adjourned from time to time.

(b) The general public shall be excluded and only such persons admitted whose presence is requested by the parent or guardian or as the judge or district family judge finds to have a direct interest in the case, from the standpoint of the best interests of the child involved, or in the work of the court [from the standpoint of the best interests of the child involved]; provided that the victim of the alleged violation and all other witnesses who [is] are less than eighteen years of age, shall be entitled to have parents, [or] guardians, or one other adult and may have an attorney present while testifying at or otherwise attending a hearing initiated pursuant to section 571-11(1) or 571-11(2). Prior to the start of a hearing, the parents, guardian, or legal custodian, and, when appropriate, the child victim or witness shall be notified of the right to be represented by counsel[.] and the right to remain silent.

(c) Findings of fact by the judge or district family judge of the validity of the allegations in the petition shall be based upon a preponderance of evidence admissible in the trial of civil cases except for petitions alleging the court's jurisdiction under section 571-11(1) which shall require proof beyond a reasonable doubt in accordance with rules of evidence applicable to criminal cases[.]; provided that no child who is before the court under section 571-11(1) shall have admitted against him any evidence in violation of his rights secured under the constitution of the United States or the State of Hawaii. In the discretion of the judge or district family judge the child may be excluded from the hearing at any time. When more than one child is alleged to have been involved in the same act, the hearing may be held jointly for the purpose of making a finding as to the allegations in the petition and then shall be heard separately for the purpose of disposition except in cases where the children involved have one common parent.

(d) In the disposition part of the hearing any relevant and material information, including that contained in a written report, study, or examination, shall be admissible, and may be relied upon to the extent of its probative value; provided that the maker of the written report, study, or examination shall be subject to both direct and cross-examination upon demand and when he is reasonably available. The disposition shall be based only upon the admitted evidence, and findings adverse to

the child as to disputed issues of fact shall be based upon a preponderance of such evidence.

(e) Upon a final adverse disposition, if the parent or guardian is without counsel the court shall inform the parent or guardian of his right to appeal as provided for in section 571-54.

(f) The judge, or the senior judge if there is more than one, may by order confer concurrent jurisdiction on a district court created under chapter 604 to hear and dispose of cases of violation of traffic laws or ordinances by children, provision to the contrary in section 571-11 or elsewhere notwithstanding. The exercise of jurisdiction over children by district courts shall, nevertheless, be considered non-criminal in procedure and result in the same manner as though the matter had been adjudicated and disposed of by a family court."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1983.)

ACT 200

H.B. NO. 621

A Bill for an Act Relating to Speech Pathologists and Audiologists.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 468E-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) All speech pathologists and [audiologists] audiologists employed by a local or state government shall comply with the license requirements of this chapter by December 31, 1984[.]; provided that any person engaged in the practice of speech pathology or audiology on or before October 1, 1981, as an employee of or under contract to a local or state government agency shall be deemed in compliance with the licensure requirements without the necessity of the written examination and may practice speech pathology or audiology, as the case may be, after October 1, 1981, for the government agency for as long as the person remains continuously employed from such date by the government agency for that purpose; provided further that the records of the board of speech pathology and audiology shall distinguish between those employees practicing speech pathology and audiology who are licensed in accordance with the provisions of this chapter, and those who are deemed to be in compliance with the licensure requirements in accordance with this subsection."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1983.)

A Bill for an Act Relating to Contractors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 **[[NEW]] Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1983:

- [(1)] Chapter 444 (Contractors License Board)
- [(2)] (1) Chapter 448E (Board of Electricians and Plumbers)
- [(3)] (2) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- [(4)] (3) Chapter 466 (Board of Public Accountancy)
- [(5)] (4) Chapter 467 (Real Estate Commission)
- [(6)] (5) Chapter 448H (Elevator Mechanics Licensing Board)

(b) The following chapters are hereby repealed effective December 31, 1984:

- (1) Chapter 436D (Board of Acupuncture)
- (2) Chapter 442 (Board of Chiropractic Examiners)
- (3) Chapter 448 (Board of Dental Examiners)
- (4) Chapter 453 (Board of Medical Examiners)
- (5) Chapter 457 (Board of Nursing)
- (6) Chapter 447 ~~[(Board)]~~ (Dental Hygienists)
- (c) The following chapters are hereby repealed effective December 31, 1985:

- (1) Chapter 460 (Board of Osteopathic Examiners)
- (2) Chapter 461 (Board of Pharmacy)
- (3) Chapter 455 (Board of Examiners in Naturopathy)
- (4) Chapter 463E (Podiatry)
- (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (d) The following chapters are hereby repealed effective December 31, 1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 438 (Board of Barbers)
- (6) Chapter 439 (Board of Cosmetology)
- (e) The following chapters are hereby repealed effective December 31, 1987:

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)

(6) Chapter 463 (Board of Detectives and Guards)
 1988: (f) The following chapters are hereby repealed effective December 31,

- (1) Chapter 465 (Board of Certification for Practicing Psychologists)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)[.]
- (g) The following chapter is hereby repealed effective December 31, 1989:
- (1) Chapter 444 (Contractors License Board)."

SECTION 2. Section 444-11, Hawaii Revised Statutes, is amended to read as follows:

"§444-11 No license issued when. No license hereunder shall be issued to:

- (1) Any person unless he has filed an application therefor;
- (2) Any person who does not possess a good reputation for honesty, truthfulness, financial integrity, and fair dealing;
- (3) Any individual unless he is of the age of eighteen years or more;
- [(4)] Any individual qualifying as a contractor unless he has been a resident of the State for at least one year;
- (5) (4) Any copartnership or joint venture which is not exempt under section 444-2(8) unless the contracting business thereof is under the direct management of a partner or employee thereof, unless such partner has been a resident of the State for at least one year or such employee has been a resident of the State for at least two years, and unless such partner or employee holds an appropriate license;
- [(6)] (5) Any individual who is unable to qualify as a contractor or any corporation, unless the contracting business of such individual or corporation is under the direct management of an officer or employee thereof, unless such officer or employee has been a resident of the State for at least two years, and unless such officer or employee holds an appropriate license;
- [(7)] (6) Any person unless he submits satisfactory proof to the contractors license board that he has obtained workmen's compensation insurance or has been authorized to act as a self-insurer as required by chapter 386;
- [(8)] (7) The provisions of this section shall not apply when it is determined by the contractors license board that less than ten persons are qualified to perform the work in question. The provisions also shall not apply with respect to projects which require additional qualifications beyond those established by the licensing law, and which are deemed necessary and in the public interest by the contracting agency."

SECTION 3. Section 444-12, Hawaii Revised Statutes, is amended to read as follows:

"§444-12 Application; fees. (a) Every applicant for a license under this chapter shall file an application with the contractors license board in such form and setting forth such information as may be prescribed or required by the board, and shall furnish such additional information bearing upon the issuance of the license as it shall require. Every application shall be sworn to before an officer authorized to administer oaths. In the case of a copartnership, joint venture, or corporation any member or officer thereof may sign the application and verify the same on behalf of the applicant.

(b) Every application, in the case of an individual, shall be accompanied by sworn certificates of not less than two persons who have known the applicant for a period of not less than six months, certifying that the applicant bears a good reputation for honesty, truthfulness, and fair dealing.

(c)] (b) Every application for a license hereunder shall be accompanied by an application fee of \$25."

SECTION 4. Section 444-26, Hawaii Revised Statutes, is amended to read as follows:

"§444-26 Contractors recovery fund; use of fund; person injured; fees. The contractors license board is authorized and directed to establish and maintain a contractors recovery fund from which any person injured by an act, representation, transaction, or conduct of a duly licensed contractor, which is in violation of the provisions of this chapter or the regulations promulgated pursuant thereto, may recover by order of the circuit court or district court of the [county] judicial circuit where the violation occurred, an amount of not more than [\$10,000] \$12,500 for damages sustained by the act, representation, transaction, or conduct. Recovery from the fund shall be limited to the actual damages suffered by the claimant, including court costs and fees as set by law, and reasonable attorney fees as determined by the court; provided that recovery from the fund shall not be awarded to persons injured by an act, representation, transaction, or conduct of a contractor whose license was in an inactive status at the time of the injury.

For the purposes of this chapter, "person injured" means and is limited to owners or lessees of private residences, including condominium or cooperative units, who have contracted with a duly licensed contractor for the construction of improvements or alterations to their own private residences.

Every contractor, when renewing his license in 1974, shall pay in addition to his license renewal fee, a fee of \$50 for deposit in the contractors recovery fund. On or after May 1, 1974, when any person makes application for a contractors license he shall pay, in addition to his original license fee, a fee of \$150 for deposit in the contractors recovery fund. In the event that the contractors license board does not issue the license, this fee shall be returned to the applicant."

SECTION 5. Section 444-27, Hawaii Revised Statutes, is amended to read as follows:

"§444-27 Additional payments to fund. If, on December 31 of any year, the balance remaining in the contractors recovery fund is less than [\$150,000,]

\$250,000, every contractor, when renewing his license during the following biennial renewal period, shall pay, in addition to his license renewal fee, a fee not to exceed [150] \$250 for deposit in the contractors recovery fund."

SECTION 6. Section 444-34, Hawaii Revised Statutes, is amended to read as follows:

"**§444-34 Maximum liability.** Notwithstanding any other provision, the liability of the contractors recovery fund shall not exceed [\$20,000] \$25,000 for any licensed contractor."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 7, 1983.)

ACT 202

H.B. NO. 702

A Bill for an Act Relating to the Office of Hawaiian Affairs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to appropriate moneys to supplement the budget of the office of Hawaiian affairs.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,087,467, or so much thereof as may be necessary, for the fiscal biennium 1983-85 to carry out the purpose of this Act. For fiscal year 1983-84, the appropriated sum shall be \$533,412, and for fiscal year 1984-85, that sum shall be \$554,055.

SECTION 3. The sums appropriated in Section 2 include funding of up to 33 positions and a protocol fund of \$5,000; provided that in expending the moneys appropriated in this Act, expenditures shall be matched by the office of Hawaiian affairs.

SECTION 4. The appropriations made in Section 2 of this Act shall be expended by the office of Hawaiian affairs.

SECTION 5. The office of Hawaiian affairs and the State of Hawaii shall share equally in the costs of fringe benefits paid for employees of the office of Hawaiian affairs. Fringe benefits shall be defined as benefits received by public employees including, hospital, medical, and dental care under the public employees health fund, temporary disability insurance, unemployment insurance, life and long term disability insurance, workers compensation, social security, and retirement benefits.

SECTION 6. The office of Hawaiian affairs shall follow budgetary guidelines as stated in Chapter 37, Hawaii Revised Statutes, and also, shall meet the following concerns:

1. Initiate a plan and budget which should distinguish between program areas, delineating costs for personnel expenses, other current expenses,

as well as equipment, motor vehicle acquisitions, and capital improvement projects so that program costs can be categorized and reviewed similar to other State of Hawaii general funded programs.

2. The financial plan should address the problems facing the office of Hawaiian affairs in its funding of Hawaiian and Native Hawaiian programs and related costs. Such plan and budget may include partial funding of personnel and related costs, (i.e. 60% general funded - 40% special funded) or other likewise plans.
3. The plan should accurately show an accounting of all funds within the office of Hawaiian affairs.

This plan and budget shall be devised during Fiscal Year 1983-84 to be reviewed by the Legislature during the 1984 legislative session and implemented in Fiscal Year 1984-85.

SECTION 7. This Act shall take effect on July 1, 1983.

(Approved June 7, 1983.)

ACT 203

H.B. NO. 708

A Bill for an Act Relating to Residential Leaseholds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to amend chapter 516, Hawaii Revised Statutes, by amending section 516-51 and by adding a new section to chapter 516, which clarifies the role of the parties in a chapter 516 eminent domain action.

SECTION 2. Section 516-51, Hawaii Revised Statutes, is amended as follows:

“§516-51 Preliminary negotiation required. (a) Upon the filing of a petition by the number of lessees required by section 516-22 with the Hawaii housing authority, the authority shall request the lessor and the lessees or their designated agents to negotiate the just compensation which the lessees will pay to the lessor to acquire the lessor's interest in the development tract. If no agreement is reached within sixty days after the request to negotiate, the parties shall simultaneously exchange written final offers together with any appraisals, other documents, and any other expert opinions on which their negotiating positions were based. Copies of the final offers and related documents shall be submitted to the authority and the authority may use the information in determining, prior to commencing condemnation proceedings, the probability that lessees will be able to meet the financial requirements of section 516-33(4).

(b) This preliminary negotiation shall be in advance of and shall not constitute any part of any action in condemnation or eminent domain.

Any offers, appraisals, other documents, or any other expert opinions giving a value of the lessor's interest in the development tract which were prepared for use in preliminary negotiations as provided for in this section or for setting qualification amounts pursuant to section 516-33(4), and were not prepared for use in the trial

shall not be discoverable, usable, or admissible in any action, suit, or proceeding brought under this chapter."

SECTION 3. Chapter 516, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"§516- Eminent domain trial. The parties to the eminent domain action brought under this chapter shall be the authority as plaintiff and the lessees and all other necessary parties as defendants. All parties shall be given an opportunity to present evidence of the fair market value of the leased fee interest being acquired."

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved June 7, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 204

H.B. NO. 710

A Bill for an Act Relating to Residential Leaseholds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 516-33, Hawaii Revised Statutes, is amended as follows:

"§516-33 Qualification for purchase. Except as otherwise provided under section 516-28, no sale of any residential house/lot within a development tract shall be made to any person unless he meets the following requirements:

- (1) Is at least eighteen years of age;
- (2) Is a bona fide resident of the State or has a bona fide intent to reside in the development tract if successful in purchasing the lot;
- (3) Has legal title to, or pursuant to an agreement of sale an equitable interest in, a residential structure situated on the leased lot applied for; provided that, for the purposes of this section, the vendor under such agreement of sale shall not be eligible to purchase the lot. An agreement of sale means an executory contract for the sale and purchase of real property which binds one party to sell and the other party to buy property which is the subject matter of the transaction;
- (4) Has a letter of credit, certificate of deposit, proof of funds, or approved application from any lending institution demonstrating that he will be able to promptly pay the authority for the leased fee interest in the lot;
- (5) Submits an application in good faith in such form as is acceptable to the authority;
- (6) Executes a contract for purchase of the fee interest in such form as is acceptable to the authority; and
- (7) Does not own in fee simple lands suitable for residential purposes within the county and in or reasonably near the place of business of

such person or has or have pending before the Hawaii housing authority an unrefused application to lease or purchase a lot in a development tract. A person is deemed to own lands herein if he, his spouse, or both he and his spouse (unless separated and living apart under a decree of a court of competent jurisdiction) own lands.

The amount set by the authority for the leased fee interest in the lot for which the lessee must obtain a letter of credit, certificate of deposit, proof of funds, or approved application for loan pursuant to section 516-33(4) shall not be admissible for any reason in any action, suit, or proceeding brought under this chapter. Any financial information the authority may request and obtain from the lessees shall not be discoverable or admissible in any action, suit, or proceeding brought under this chapter.

In the event of a wilful breach of contract of a lessee to purchase the leased fee interest, the authority may sell or assign its interest without respect to the requirements of this section.

The authority may require additional testimony or evidence under oath in connection with any application. The determination by the authority of any applicant's eligibility under this part shall be conclusive as to all persons thereafter dealing with the property; provided that the making of any false statement knowingly by applicants or other person in connection with any application shall constitute perjury and be punishable as such. The authority shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section."

SECTION 2. Section 516-24, Hawaii Revised Statutes, is amended to read as follows:

"§516-24 Compensation. The compensation to be paid for the leased fee interest in a residential house/lot within a tract shall be the owner's basis as defined in section 516-1(14). The compensation shall be determined as of the date of the [designation of the applicable portion of the development tract for acquisition.] summons of the complaint in eminent domain."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 7, 1983.)

ACT 205

H.B. NO. 757

A Bill for an Act Relating to Temporary Disability Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 392-27, Hawaii Revised Statutes, is amended to read:

"§392-27 Ineligibility in certain cases. An individual shall not be eligible to receive temporary disability benefits:

- (1) For any period of disability during which [he] the individual would be disqualified from receiving benefits under the Hawaii Employment

Security Law by reason of unemployment due to a stoppage of work existing because of a labor dispute for the duration of such disqualification.

- (2) If the director finds that the individual has knowingly made a false statement or representation of a fact or knowingly failed to disclose a material fact in order to obtain benefits under this chapter to which [he] the individual is not otherwise entitled. The ineligibility shall be for a period determined by the director, but shall not exceed the period of disability with respect to which the false statement or representation was made or the nondisclosure occurred.
- (3) For any period of disability due to wilfully and intentionally self-inflicted injury or to injury sustained in the commission of a criminal offense specified in title [[37]].
- (4) For any day of disability during which the employee performed work for remuneration or profit, except that, if an employee returning to work suffers a relapse after performing work for less than a full day, [he] the employee shall be paid benefits or be given waiting period credit, provided [his] the employee's wages for¹ partial day's work did not equal or exceed the prorated disability benefits to which [he] the employee is entitled. The amount of the benefit payable is derived by subtracting the gross wages received for performing less than a full day's work, from the prorated disability benefits to which [he] the employee is entitled.
- (5) Unless the claim for disability benefits is filed within ninety days after the commencement of the period of disability or as soon thereafter as is reasonably possible."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1983.)

Note

1. Prior to amendment "the" appeared there.

ACT 206

H.B. NO. 765

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 235-4, Hawaii Revised Statutes, is amended to read:

"§235-4 Income taxes by the State; residents, non-residents, [corporation,] corporations, estates, and trusts. (a) Residents. The tax imposed by this chapter applies to the entire income of a resident, computed without regard to source in the State.

(b) Nonresidents. In the case of a nonresident, the tax applies to the income received or derived from property owned, personal services performed, trade, or business carried on, and any and every other source in the State.

In the case of a nonresident spouse filing a joint return with a resident spouse, the tax applies to the entire income of the nonresident spouse computed without regard to source in the State.

(c) [When] Change of status. Except where a joint return is filed, when the status of a taxpayer changes during the taxable year from resident to nonresident, or from nonresident to resident, the tax imposed by this chapter applies to the entire income earned during the period of residence in the manner provided in subsection (a) of this section and during the period of nonresidence the tax shall apply upon the income received or derived as a nonresident in the manner provided in subsection (b) of this section; provided that, if it cannot be determined whether income was received or derived during the period of residence or during the period of nonresidence, there shall be attributed to the State such portion of the income as is determined by applying to such income for the whole taxable year the ratio which the period of residence in the State bears to the whole taxable year, unless the taxpayer shows to the satisfaction of the department of taxation that the result is to attribute to the state income, dependent upon residence, received or derived during the period of nonresidence, in which event the amount of income as to which such showing is made shall be excluded.

The apportionment of income provided by this subsection shall not apply where one spouse is a resident of this State and a joint return is filed with the nonresident spouse in which event the tax shall be computed on their aggregate income in the manner provided in section 235-52 without regard to source in the State. Where, however, both spouses change their status from resident to nonresident or from nonresident to resident, their income shall be apportioned in the manner provided in this subsection.

(d) A corporation, foreign or domestic, is taxable upon the income received or derived from property owned, trade or business carried on, and any and every other source in the State. In addition thereto a domestic corporation is taxable upon its income from property owned, trade or business carried on, and any and every other source outside the State, unless subjected to income tax thereon in any other jurisdiction. Subjection to federal tax does not constitute subjection to income tax in another jurisdiction. "Corporation" includes any professional corporation incorporated pursuant to part VIII of chapter 416.

- (e) (1) The income of a resident estate or trust shall be computed without regard to source in the State. The income of a nonresident estate or trust shall be that received or derived from sources in the State.
- (2) A beneficiary of an estate or trust, or person treated as the owner of any portion of a trust, who is taxable upon income thereof under the Internal Revenue Code, shall be taxed thereon as herein provided, irrespective of the taxability of the estate or trust or whether it is required to make a fiduciary return under this chapter. If all such income consists of income which would be taxable under this chapter if received directly by the beneficiary or person, he shall be taxed upon

all of it. If some of it consists of income which would not be taxable if received directly by the beneficiary or person, then unless the trust instrument provides otherwise the income of each such beneficiary or person shall be conclusively presumed to have been received or derived out of each class of income of the estate or trust, and he shall be taxed upon such part of it as would be taxable if received directly by him.

- (3) Each estate or trust shall include in its return all of the information necessary to determine the taxability of the income of the estate or trust, regardless of source. Only in the case of a nonresident estate or trust of which all the beneficiaries are nonresidents and no part of which is treated as owned by a resident shall the return be confined to income from sources in the State. This paragraph shall not cause income to be taxed to an estate or trust that otherwise would not have been so taxed."

SECTION 2. Section 235-61, Hawaii Revised Statutes, is amended by amending subsection (f) to read:

"(f) On or before the date of the commencement of employment with an employer, the employee shall furnish the employer with a signed certificate relating to the [amount] number of exemptions which he claims, which shall in no event exceed the [amount] number to which he is entitled on the basis of the existing facts, and also showing whether he is married and is, under section 235-93, entitled to make a joint return. The certificate shall be in such form and contain such information as may be prescribed by the department.

If, on any day during the calendar year, there is a change in the employee's marital status and he no longer is entitled to make a joint return, or the [amount] number of exemptions to which the employee is entitled is less than the [amount] number of exemptions claimed by the employee on the certificate then in effect with respect to him, the employee shall within ten days thereafter furnish the employer with a new certificate showing his present marital status, or relating to the [amount] number of exemptions which the employee then claims, which shall in no event exceed the [amount] number to which he is entitled on the basis of the existing facts. If, on any day during the calendar year, there is a change in the employee's marital status and though previously not entitled to make a joint return he now is so entitled, or the [amount] number of exemptions to which he is entitled is greater than the [amount] number of exemptions claimed, the employee may furnish the employer with a new certificate showing his present marital status, or relating to the [amount] number of exemptions which the employee then claims, which shall in no event exceed the [amount] number to which he is entitled on the basis of the existing facts.

Such certificate shall take effect at the times set forth in the Internal Revenue Code."

SECTION 3. Section 237-7, Hawaii Revised Statutes, is amended to read:

"§237-7 "Service business or calling", defined. "Service business or calling" includes all [nonprofessional] activities engaged in for other persons for a consideration which involve the rendering of a service as distinguished from the sale of tangible property or the production and sale of tangible property. "Service

business or calling” does not include the services rendered by an employee to his employer.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act upon its approval shall apply to taxable years beginning after December 31, 1982.

(Approved June 7, 1983.)

ACT 207

H.B. NO. 768

A Bill for an Act Relating to Motor Vehicle Accident Reparations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 294-35, Hawaii Revised Statutes, is amended to read as follows:

“§294-35 Allocation of burdens [until system established]. The commissioner shall within two years after the effective date of this chapter establish a system of proportionate reimbursement as authorized by the provisions on equitable allocation of burdens among insurers and self-insurers under section 294-34(c). [Until the commissioner has adopted by regulation other criteria for proportionate reimbursement consistent with those provisions of section 294-34(a),

- (1) In accidents involving motor vehicles with a gross weight of more than ten thousand pounds and a vehicle with a gross weight of less than ten thousand pounds, the insurer or self-insurer of the heavier vehicle shall reimburse seventy-five per cent of the no-fault benefits paid by the insurer or self-insurer of the lighter vehicle. However, in conjunction with section 294-7, the insurer or self-insurer of the lighter vehicle shall not recover more than twenty-five per cent of all no-fault benefits paid to any person who effects a tort liability settlement for accidental harm.
- (2) In accidents involving motor vehicles with four or more wheels and motor vehicles with less than four wheels, the insurer or self-insurer of the motor vehicle with four or more wheels shall reimburse eighty per cent of the no-fault benefits paid by the insurer or self-insurer of the motor vehicle with less than four wheels. However, in conjunction with section 294-7, the insurer or self-insurer of the motor vehicle with less than four wheels shall not recover more than twenty per cent of all no-fault benefits paid to any person who effects a tort liability settlement for accidental harm.]”

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1983.)

A Bill for an Act Relating to the Family Court.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-8, Hawaii Revised Statutes, is amended to read as follows:

"[§571-8] District family courts; district family judges; appointment; sessions. (a) In addition to the district courts established under section 604-1, there may be established in each of the judicial circuits of the State [of Hawaii] a district family court with the powers and under the conditions herein set forth which shall be styled as follows:

- (1) For the first judicial circuit: The district family court of the first circuit.
- (2) For the second judicial circuit: The district family court of the second circuit.
- (3) For the third judicial circuit: The district family court of the third circuit.
- (4) For the fifth judicial circuit: The district family court of the fifth circuit.

(b) When in the discretion of the chief justice of the supreme court the urgency or volume of cases so requires, he may appoint one or more district family [court] judges for each judicial circuit. In [substitution for the district family judges appointed under the authority of this chapter,] addition, within any circuit, the chief justice may designate any district judge of [a] the district court [appointed pursuant to chapter 604] to act as a district family [court] judge within [any] that circuit; such judge when so designated shall exercise the powers of a district family judge appointed pursuant to this section.

The chief justice may assign any district judge or district family judge of any circuit to serve temporarily in the district family court of any other circuit.

The district family courts shall hold sessions at such places and as often as the family court judge or the senior family court judge, if there is more than one, of the judicial circuit shall prescribe."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1983.)

A Bill for an Act Relating to the Family Court.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 580-56, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Following the entry of a decree of divorce in any matrimonial action in which the final division of the property of the parties to such action is reserved for further hearings, decisions, and orders, notwithstanding the provisions of section 560:2-802, or any other provisions of the law to the contrary, each party to such action shall continue to have all of the rights to and interests in the property of the other party to such action as provided by chapter 533 and chapter 560, or as otherwise provided by law to the same extent he or she would have had such rights or interests if the decree of divorce had not been entered, until the entry of a decree or order finally dividing the property of the parties to such matrimonial action, or as provided in subsection (d)[.] of this section.

(c) When a party to a matrimonial action has remarried following the entry of a decree of divorce, in which the final division of the property of the parties is reserved for further hearings, decisions, and orders, but prior to the entry of a decree or order finally dividing the property owned by the parties to that action, notwithstanding the provisions of chapter 533[,] and chapter 560, the spouse of such remarried party shall have none of the rights or interests in the former spouse’s real property or personal estate as provided in chapter 533[,] and chapter 560, or as otherwise provided by law, until such time as a decree or order finally dividing the property owned by the parties or either of them as of the effective date of the entry of the decree of divorce dissolving his or her prior marriage shall be entered. Upon the entry of a decree or order finally dividing the property of the parties to a matrimonial action in which a decree of divorce has been entered, the spouse of a party to such action who has remarried shall have all of the rights of a spouse as provided by chapter 533[,] and chapter 560, or as otherwise provided by law, in and to the property of the former spouse vested in such spouse by such decree or order finally dividing the property of the parties or either of them, as of the effective date of the entry of the decree of dissolution of the prior marriage.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1983.)

A Bill for an Act Relating to the Practice of Beauty Culture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 439-2, Hawaii Revised Statutes, is amended to read as follows:

“**§439-2 Registration required.** No person shall for commercial purposes demonstrate any hair or cosmetic preparations or products or practice as [an] a cosmetologist, operator, apprentice, student, or instructor or operate a school or beauty shop or announce or advertise [himself] as being prepared or qualified [so to do] to do so unless [he] the person is registered with and holds a certificate from the board of cosmetology authorizing [him] the person to do so¹; provided that this

chapter shall not affect the right of any person licensed by the State to engage in any other occupation from doing any of the acts properly authorized by [his] the person's license. The certificate of [an] a cosmetologist, operator, apprentice, shop, or school shall be displayed in a conspicuous place in the office, place of business or employment, or school of the holder thereof."

SECTION 2. Section 439-4, Hawaii Revised Statutes, is amended to read as follows:

"§439-4 Officers of the board. The board of cosmetology shall select a [president, a secretary, and a treasurer.] chairman annually. [The offices of secretary and treasurer may be combined in one person.] An executive secretary, assigned by the department of commerce and consumer affairs, shall service the board.

The [president] chairman of the board shall preside at all meetings and in [his] the chairman's absence the members present shall select a [president] chairman protem."

SECTION 3. Section 439-5, Hawaii Revised Statutes, is amended to read as follows:

"§439-5 Meetings. The board of cosmetology shall hold meetings at [such] times as it deems necessary. A majority of the board shall constitute a quorum and the concurrence of a majority of the members present shall be necessary to make any action of the board valid."

SECTION 4. Section 439-6, Hawaii Revised Statutes, is amended to read as follows:

"§439-6 Power to investigate. The board of cosmetology or any member thereof, or any person designated by the board for the purpose, may investigate any violation or suspected violation of this chapter. Each member of the board may administer oaths in connection with any [such] investigation."

SECTION 5. Section 439-7, Hawaii Revised Statutes, is amended to read as follows:

"§439-7 Rules [and regulations]. The board of cosmetology may make, amend, and repeal [such] rules [and regulations] as it deems proper to fully effectuate and carry out the purpose of this chapter which is declared to be the protection of the general public in its dealings with hairdressers, cosmeticians, and cosmetologists. The rules [and regulations] shall be made subject to chapter 91 and shall be approved by the governor and the director of commerce and consumer affairs. They shall have the force and effect of law."

SECTION 6. Section 439-9, Hawaii Revised Statutes, is amended as read as follows:

"§439-9 Expenses. (a) The members of the board shall serve without pay but shall be reimbursed for actual expenses incurred in the [discharge] discharge of their duties.

(b) All fees received by the board shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund."

SECTION 7. Section 439-10, Hawaii Revised Statutes, is amended to read as follows:

“§439-10 Apprentices, [and] students[.], and instructor-trainees. An apprentice [or], student, or instructor-trainee shall be registered and given a certificate to that effect upon application and payment of a fee of \$3 and submission of evidence satisfactory to the board of cosmetology that [he] the applicant is at least sixteen years of age, of good moral character, [and] is possessed of an education equivalent to the completion of four years of high school[.] and, in the case of an instructor-trainee, has the required three years of experience as a registered operator.”

SECTION 8. Section 439-12, Hawaii Revised Statutes, is amended to read as follows:

“§439-12 Requisites for admission to examination and registration. The executive secretary of the board of cosmetology shall determine the sufficiency of the preliminary qualifications of applicants for admission to examinations and registration. The following preliminary qualification shall be sufficient:

- (1) An operator may be registered in any of the classified practices or occupations under this chapter upon the payment of an examination fee of \$20 for each of the practices or occupations or any one or any combination of the practices or occupations, provided [he] the operator is of good moral character and has an education equivalent to the completion of four years of high school and has either (A) served the required time as an apprentice under the supervision of a registered operator or instructor, as determined by the board for any one or combination of the practices but not less than one year including two thousand hours for each of the two classified occupations; or (B) has acquired the equivalent training in a registered school, and has passed the prescribed examination or examinations to the satisfaction of the board; and provided further[.], that an applicant to be registered solely in the practice of removing superfluous hair by the use of electricity and commonly known and defined as the practice of electrolysis, shall have trained under the supervision of a registered electrologist for at least six hundred hours including [such] other studies as the board may prescribe; provided further[.], that the removal of superfluous hair by use of an electrical instrument or device which neither touches nor penetrates the skin shall not constitute the practice of electrolysis for purposes of this section; and provided further[.], that an applicant may be registered solely in the classified practice of a manicurist and [such] an applicant so registered may engage in [such] a classified practice in a barber shop, a beauty shop, or in [his] the applicant's² own shop upon serving seven hundred hours of time as an apprentice under the supervision of a registered operator or instructor or three hundred fifty hours of training in a registered school and upon satisfying all the other requirements of this section; and provided further[.], that an applicant may be registered solely as a “Hair Cosmetician” in the classified occupation of a cosmetician upon serving one thousand two hundred

hours of time as an apprentice under the supervision of a registered operator or instructor or six hundred hours of training in a registered school and upon satisfying all the other requirements of this section. Any applicant who fails an initial examination after paying the initial examination fee of \$20, shall thereafter pay an examination fee of \$10 for any subsequent examination.

Any person who has taken but has not successfully passed the examination or examinations prescribed by the board for any one or any combination of the practices or occupations but who has satisfied all the other requirements of this section may be registered as a "Junior Operator" and may work in a beauty shop under the supervision of a licensed operator in the practices or occupations in which [such] the person has been examined so long as [such] the person continues to take the prescribed examination or examinations in good faith. Failure or refusal on the part of a "Junior Operator" to take any prescribed examination or examinations shall be sufficient reason for the revocation of [such] the registration by the board.

- (2) Instructors may be registered in any of the classified practices or occupations upon the payment of an examination fee of \$20, provided [they] the instructors are of good moral character and have completed a course satisfactory to the board in the theory and practice of education and have served actively for a period of at least three years as a registered operator in the State or in another jurisdiction having standards for registration in the particular practice or occupation substantially equivalent to those of the State and have passed an examination satisfactory to the board; provided[,] that the board may at its discretion and without regard to the requirements of this section, issue and revoke a temporary certificate to any person holding a valid existing instructor's license in another territory, county, or state having standards substantially equivalent to those in force in the State at the time of [such] the registration, for the limited purpose of either (A) commercially demonstrating in the State, any hair or cosmetic preparations or products identifiable by a trade name or trademark; or (B) instructing in hairstyling in a registered school or under the sponsorship of any organization approved by the board until the next following instructor's examination given by the board. Instructors duly registered under chapter 453, need not be holders of instructors certificates."

SECTION 9. Section 439-15, Hawaii Revised Statutes, is amended to read as follows:

"§439-15 Certificates of registration. (a) Certificates. The board of cosmetology shall issue a certificate of registration as apprentice, student, operator, or instructor, as the case may be, to each person who passes the required examination, pays the proper fee, and meets all of the other requirements of this chapter. The certificate shall state specifically the occupation for which the person is registered and shall be signed by the [president] chairman and executive secretary and impressed with the seal of the board.

(b) Expiration. All certificates issued by the board expire on December 31 of each odd-numbered year.

(c) Renewal. Every registered operator and instructor shall pay to the [treasurer of the] board between December 1 and 31 of each odd-numbered year a biennial renewal fee of \$8. The payment of the renewal fee shall entitle the registrant to renewal of [his] the² certificate.

(d) Renewal after lapse. The certificate of an apprentice, operator, or instructor shall be reinstated upon payment of all delinquent fees and a penalty of \$10 if application is made within three years after lapse."

SECTION 10. Section 439-16, Hawaii Revised Statutes, is amended to read as follows:

"§439-16 Temporary certificates. The board of cosmetology may issue temporary certificates authorizing the person concerned to practice as an operator until the results of the next examinations have been published. The certificate may be issued upon application only to a person who has paid the usual examination fee and [who shows to the satisfaction of the board that he of good moral character, that he has been a resident of the State for not less than sixty days immediately preceding the filing of an application for examination and registration, and that he] possesses one of the following qualifications:

- (1) [He is] Is a graduate of a school and course which meet the standards established for schools in the State;
- (2) [He has] Has been, for three out of the four years immediately preceding the date of [his] the² application, lawfully engaged in another state, territory, or country in the occupation covered by the certificate sought;
- (3) [He holds] Holds a valid and existing license to engage in the occupation covered by the certificate sought in a state, territory, or country having standards for registration substantially equivalent to those in force in the State at the time of the application."

SECTION 11. Section 439-17, Hawaii Revised Statutes, is amended to read as follows:

"§439-17 Beauty shops. (a) Registration. A certificate of registration of a beauty shop may be secured by filing an application therefor and paying a fee of \$20 and showing to the satisfaction of the board of cosmetology that the shop meets the standards of sanitation required by the rules [and regulations] of the department of health, that a registered managing operator who has practiced as a registered operator in the State for at least one year is in charge of the shop, and that it is adequately equipped for the practices in which it engages. The board may waive the requirement that the registered managing operator have practiced in the State, for at least one year, upon a showing that the person has had other experience as a managing operator equivalent to one year's practice in this State and upon further showing that the aforesaid requirement creates undue hardship on the shop.

(b) Renewal. All [such] certificates shall expire on December 31 [next following the date of issue, but] in each odd-numbered year. Certificates may be renewed by payment of a biennial fee of [\$3 [4]] \$8 prior to the date of expiration.

A lapsed certificate may be reissued upon payment of the renewal fee and a penalty of [\$5.] \$10.

(c) Nothing in this chapter shall prohibit registered operators within a beauty shop from teaching any of the practices of the classified occupations in the regular course of business; provided the owners or managers [thereof] do not hold themselves out as a school, and do not hire or employ or teach, regularly, at any one time, more than one apprentice unless [they have] there are three operators regularly employed in the business for each apprentice."

SECTION 12. Section 439-18, Hawaii Revised Statutes, is amended to read as follows:

"§439-18 Schools. (a) Registration. Any person may apply to the board of cosmetology for a certificate of registration as a school of any of the practices of the classified occupations, upon the payment to the board of an initial registration fee for the first year of the registration in the sum of [\$500 [750].] \$750. Thereafter an annual registration fee shall be paid to the board in accordance with the following schedule; if at no time during the preceding year the school had more than twenty-five pupils, then the fee shall be in the sum of [\$125 [150].] \$150, and if at any time during the preceding year the school had twenty-six or more pupils, then the fee shall be in the sum of \$250.

(b) No school shall be granted a certificate of registration unless it attaches to its staff a regularly licensed physician and employs and maintains a sufficient number of registered instructors, and requires a course of training of [not less than nine hundred hours for each of the two classified occupation, or] a proportioned number of hours as approved by the board, for any of the classified practices, provided the total shall not be less than eighteen hundred hours, to include both practical demonstrations, written and oral tests, and practical instruction in sanitation, sterilization, and the use of antiseptics consistent with the practical and theoretical requirements applicable to the classified occupations.

All [such] certificates shall expire on December 31 next following the date of issue, but may be renewed by payment of the annual registration fee prior to the date of expiration. A lapsed certificate may be reissued upon payment of the renewal fee and a penalty of the same amount as the required annual registration fee."

SECTION 13. Section 439-19, Hawaii Revised Statutes, is amended to read as follows:

"§439-19 Refusal to grant and revocation and suspension of certificates.

(a) The board of cosmetology may refuse to grant, renew, reinstate, or restore any certificate required under this chapter, whether covering the registration of an apprentice, student, cosmetologist, operator, instructor, school, or shop, for any cause which would be grounds for revocation of a certificate under this section. The board may, nevertheless, renew, reinstate, or restore any [such] certificate when it determines that [such] action is just and may be done consistently with the accomplishment of the purpose of this chapter.

(b) The board may revoke or suspend any certificate, whether covering the registration of an apprentice, student, cosmetologist, operator, instructor, school, or shop, for any of the following causes:

- (1) Professional misconduct, gross carelessness, or manifest incapacity;
 - (2) Violation of any of the provisions of this chapter or the rules [and regulations promulgated] adopted pursuant thereto or any other law which applies to [him] the person in the occupation covered by the certificate;
 - (3) Making any false representation or promise through advertising or otherwise or in any manner dealing fraudulently or dishonestly in the occupation covered by the certificate;
 - (4) Habitual intemperance in use of alcoholic beverages or addiction to the use of narcotic drugs; or
 - (5) Failing to display the certificate as provided in this chapter.
- No certificate shall be suspended for longer than two years."

SECTION 14. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 15. This Act shall take effect upon its approval.

(Approved June 7, 1983.)

Notes

1. Prior to amendment "," appeared here.
2. Underscoring missing.

ACT 211

H.B. NO. 811

A Bill for an Act Relating to Insurance Unfair Practices and Frauds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431-641, Hawaii Revised Statutes, is amended to read as follows:

"§431-641 Purpose of sections on unfair practices. The purpose of sections 431-641 to [431-646] 431- is to regulate trade practices in the business of insurance in accordance with the intent of the Congress of the United States as expressed in the act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of, all acts, methods, and practices which constitute unfair methods of competition or unfair or deceptive acts or practices in this State, [and in the case of persons domiciled in or resident of this State, in any other state, territory, possession, province, country, or district,] and by prohibiting the trade practices so defined or determined."

SECTION 2. Section 431-642, Hawaii Revised Statutes, is amended to read as follows:

"§431-642 Unfair methods of competition; unfair or deceptive acts or practices prohibited. No person shall engage in this State in any act or practice which is [prohibited in sections 431-641 to 431-646, or which is] defined [therein] in section 431-643 as, or determined pursuant [thereto,] to section 431-645 to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance. [No person domiciled in or resident of this State shall engage in any

other state, territory, possession, province, country, or district in any act or practice which is prohibited in sections 431-641 to 431-646, or which is defined therein as, or determined pursuant thereto, to be an unfair method of competition or any unfair or deceptive act or practice in the business of insurance. No person shall be subject to criminal penalties if the act or practice is not defined as aforesaid, but is determined to be an unfair practice by the insurance commissioner.]"

SECTION 3. Section 431-643, Hawaii Revised Statutes, is amended to read as follows:

"§431-643 Unfair methods of competition and unfair or deceptive acts or practices defined. The following are defined as unfair methods of competition and unfair [and] or deceptive acts or practices in the business of insurance:

- (1) Misrepresentations and false advertising of [policy contracts:] insurance policies. Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:
 - (A) [Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;] Misrepresents the benefits, advantages, conditions, or terms of any insurance policy; or
 - (B) [Making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;] Misrepresents the dividends or share of the surplus to be received on any insurance policy; or
 - (C) [Making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;] Makes any false or misleading statement as to the dividends or share of surplus previously paid on any insurance policy; or
 - (D) [Using any name or title of any policy or class of policies misrepresenting the true nature thereof;] Is misleading or is a misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates; or
 - (E) [Making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance;] Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof; or
 - (F) Is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy; or
 - (G) Is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; or
 - (H) Misrepresents any insurance policy as being shares of stock; or

- [(F)] (I) [Publishing] Publishes or [advertising] advertises the assets of any insurer without publishing or advertising with equal conspicuousness the liabilities of [such] the insurer, both as shown by its last annual statement; or
- [(G)] (J) [Publishing] Publishes or [advertising] advertises the capital of any insurer without stating specifically the amount of paid-in and subscribed capital.
- (2) False information and advertising generally. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of [his] the person's insurance business, which is untrue, deceptive, or misleading.
- (3) Defamation. Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.
- (4) Boycott, coercion, and intimidation:
 - (A) Entering into any agreement to commit, or by any action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance[.]; or
 - (B) Entering into any agreement on the condition, agreement, or understanding that a policy will not be issued or renewed unless the prospective insured contracts for another class or an additional policy of the same class of insurance with the same insurer.
- (5) False financial statements:
 - (A) [Filing] Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating, or [delivery] delivering to any person, or placing before the public, or knowingly causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of a material fact as to the financial condition of an insurer [with intent to deceive]; or
 - (B) [Making] Knowingly making any false entry of a material fact in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to

whom the insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, [willfully] knowingly omitting to make a true entry of any material fact pertaining to the business of the insurer in any book, report, or statement of the insurer.

- (6) Stock operations and advisory board contracts. Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.
- (7) Unfair discrimination:
 - (A) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of [such] the contract; or
 - (B) Making or permitting any unfair discrimination in favor of particular individuals or persons, or between insureds or subjects of insurance having substantially like insuring, risk, and exposure factors, or expense elements, in the term or conditions of any insurance contract, or in the rate or amount of premium charge therefor, or in the benefits payable or in any other rights or privilege accruing thereunder[.]; or
 - (C) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:
 - (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination,
or
 - (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate; or
 - (D) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property, unless:
 - (i) The refusal, cancellation, or limitation is for a business purpose which is not a mere pretext for unfair discrimination,
or
 - (ii) The refusal, cancellation, or limitation is required by law or regulatory mandate; or

- (E) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because of the sex or marital status of the individual; however, nothing in this subparagraph shall prohibit an insurer from taking marital status into account for the purpose of defining persons eligible for dependent benefits; or
 - (F) To terminate, or to modify coverage or to refuse to issue or refuse to renew any property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired; provided that this subparagraph shall not apply to accident and health insurance sold by a casualty insurer; provided further that this subparagraph shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance or renewal of any insurance policy or contract.
- (8) Rebates. Except as otherwise expressly provided by law:
- (A) Knowingly permitting or offering to make or making any contract of insurance, or agreement as to [such] the contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to [such] the insurance, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or
 - (B) Giving, or selling, or purchasing, or offering to give, sell, or purchase as inducement to [such] the insurance or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.
- (9) Nothing in [item] paragraph (7) or [item] paragraph (8) of this section shall be construed as including within the definition of discrimination or rebates any of the following practices:
- (A) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any [such bonuses] bonus or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the insurer and its policyholders;
 - (B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;

- (C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for [such] the policy year;
 - (D) In the case of any contract of insurance, the distribution of savings, earnings, or surplus equitably among a class of policyholders, all in accordance with this chapter.
- (10) Unfair claim settlement practices. Committing or performing with such frequency as to indicate a general business practice any of the following:
- (A) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;
 - (B) Failing to respond with reasonable promptness to communications, whether received from the insurer's policyholder or any other person, or insurer of the other person, who is involved in an accident in which the insurer's policyholder is also involved, with respect to claims arising under its policies;
 - (C) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
 - (D) Refusing to pay claims without conducting a reasonable investigation based upon all available information;
 - (E) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
 - (F) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;
 - (G) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by the insureds;
 - (H) Attempting to settle a claim for less than the amount to which a reasonable person would have believed the person was entitled by reference to written or printed advertising material accompanying or made part of an application;
 - (I) Attempting to settle claims on the basis of an application which was altered without notice, or knowledge or consent of the insured;
 - (J) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made;
 - (K) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;
 - (L) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of

formal proof of loss forms, both of which submissions contain substantially the same information;

(M) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;

(N) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

The commissioner shall by certified mail notify the insurer's agent, as designated pursuant to section 431-102, of each complaint filed with the commissioner under this section.

Three or more written complaints received by the commissioner within any twelve-month period charging separate violations of this section shall constitute a rebuttable presumption of a general business practice.

Evidence as to numbers and types of complaints to the insurance commissioner against an insurer, and the insurance commissioner's complaint experience with other insurers writing similar lines of insurance, shall be admissible in an administrative or judicial proceeding brought under this section; provided no insurer shall be deemed in violation of this section solely by reason of the numbers and types of such complaints except as provided in the immediately preceding paragraph and the presumption is not rebutted.

If it is found, after notice and an opportunity to be heard, that an insurer has violated this section, each instance of noncompliance may be treated as a separate violation of this section for the purposes of section 431-17."

(11) Failure to maintain complaint handling procedures. Failure of any insurer to maintain a complete record of all the complaints which it has received since the date of its last examination under section 431-54. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. For purposes of this paragraph, "complaint" shall mean any written communication primarily expressing a grievance.

(12) Misrepresentation in insurance applications. Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, or individual."

SECTION 4. Section 431-644, Hawaii Revised Statutes, is amended to read as follows:

"§431-644 Power of Commissioner. The insurance commissioner may examine and investigate into the affairs of every person engaged in the business of insurance in this State [and of any person domiciled in or resident of this State

engaged in the business of insurance in any other state, territory possession, province, country, or district] in order to determine whether the person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by section 431-643.”

SECTION 5. Section 431-645, Hawaii Revised Statutes, is amended to read as follows:

“§431-645 [Desist order for defined or prohibited practices. (a) If, after a hearing thereon of which notice of the hearing and of the charges against him were given such person, the insurance commissioner finds that any person has engaged or is engaging in any act or practice defined in or prohibited under section 431-643 in this State or that any person domiciled in or resident of this State has engaged or is engaging in any act or practice defined in or prohibited under section 431-643 in any other state, territory, possession, province, country, or district, the commissioner shall order the person to desist from such act or practice.

(b) The desist order shall become final upon expiration of the time allowed for appeals from the commissioner’s orders, if no appeal is taken, or, in event of such an appeal, upon final decision of the court if the court affirms the commissioner’s order or dismisses the appeal. An intervenor in the hearing shall have the right to appeal as provided in section 431-646(c).

(c) In event of such an appeal, to the extent that the commissioner’s order is affirmed the court shall issue its own order commanding obedience to the terms of the commissioner’s order.

(d) No order of the commissioner pursuant to this section or order of court to enforce it shall in any way relieve or absolve any person affected by the order from any other liability, penalty, or forfeiture under law.]

Hearings. (a) Whenever the commissioner shall have reason to believe that any person has been engaged or is engaging in this State in any unfair method of competition or any unfair or deceptive act or practice whether or not defined in section 431-643, and that a proceeding by the commissioner in respect thereto would be to the interest of the public, the commissioner shall issue and serve upon the person a statement of the charges in that respect and a notice of hearing thereon to be held at a time and place fixed in the notice, which shall not be less than fifteen days after the date of the service thereof.

(b) At the time and place fixed for the hearing, the person shall have an opportunity to be heard and to show cause why an order should not be made by the commissioner requiring the person to cease and desist from the acts, methods or practices so complained of.

(c) Procedures at the hearing shall be governed by chapter 91.”

SECTION 6. Section 431-646, Hawaii Revised Statutes, is amended to read as follows:

“§431-646 [Curtailment of undefined practices. (a) If the insurance commissioner believes that any person engaged in the insurance business is engaging in this State, or that any person domiciled in or resident of this State is engaging in any other state, territory, possession, province, country, or district, in any method of competition or in any act or practice in the conduct of such business which is not

defined in section 431-643, but that the method of competition is unfair or that the act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be in the public interest, he shall, after a hearing of which notice of the hearing and of the charges against him are given the person, make a written report of his findings of fact relative to the charges and serve a copy thereof upon the person and any intervenor at the hearing.

(b) If the report charges a violation of section 431-643 and if the method of competition, act, or practice has not been discontinued, the commissioner may, through the attorney general, at any time after the service of the report, cause an action to be instituted to enjoin and restrain the person from engaging in such method, act, or practice. In the action the court may grant a restraining order or injunction upon such terms as may be just; but this State shall not be required to give security before the issuance of any such order or injunction. If a stenographic record of the proceedings in the hearing before the commissioner was made, a certified transcript thereof including all evidence taken and the report and findings shall be received in evidence in the action.

(c) If the commissioner's report made pursuant to subsection (a) of this section or order on hearing made pursuant to section 431-645 does not charge a violation of section 431-643, then any intervenor in the proceedings may appeal therefrom within the time and in the manner provided in this chapter for appeals from the commissioner generally.]

Cease and desist and penalty orders; judicial review. (a) If, after the hearing, the commissioner shall determine that the person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice, the commissioner shall reduce the findings to writing and shall issue and cause to be served upon the person charged with the violation a copy of the findings and an order requiring the person to cease and desist from engaging in the method of competition, act or practice. If the act or practice is a violation of section 431-643, the commissioner may, at the commissioner's discretion, order any one or more of the following:

- (1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation but not to exceed an aggregate penalty of \$10,000, unless the person knew or reasonably should have known that the person was in violation of section 431-643, in which case the penalty shall be not more than \$5,000 for each and every act or violation but not to exceed an aggregate penalty of \$50,000 in any six month period.
- (2) Suspension or revocation of the person's license, if the person knew or reasonably should have known that the person was in violation of section 431-643.

(b) Any person aggrieved by an order of the commissioner under section 431-646 or section 431-647 may obtain judicial review of the order in the manner provided for by chapter 91."

SECTION 7. Section 431-647, Hawaii Revised Statutes, is amended to read as follows:

"§431-647 [Unfair claim settlement practices. (a) No insurer doing business in this State shall engage in unfair claim settlement practices. Any of the following acts by an insurer, if committed without just cause and performed with such frequency as to indicate a general business practice, shall constitute unfair claim settlement practices:

- (1) Misrepresenting to claimants pertinent facts or policy provisions relating to coverages at issue;
- (2) Failure to respond with reasonable promptness to communications, whether received from the insurer's policyholder or any other person, or insurer of such other person, who is involved in an accident in which the insurer's policyholder is also involved, with respect to claims arising under its policies;
- (3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under its policies;
- (4) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims submitted in which liability has become reasonably clear; or
- (5) Compelling policyholders to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them.

(b) Evidence as to numbers and types of complaints to the insurance commissioner against an insurer, and said insurance commissioner's complaint experience with other insurers writing similar lines of insurance, shall be admissible in an administrative or judicial proceeding brought under the chapter; provided no insurer shall be deemed in violation of this section solely by reason of the numbers and types of such complaints.

(c) If it is found, after notice and an opportunity to be heard, that an insurer has violated this section, each instance of noncompliance may be treated as a separate violation of this section for the purposes of section 431-17.]

Penalty for violation of cease and desist orders. Any person who violates a cease and desist order of the commissioner under section 431-646 may be subject at the discretion of the commissioner, after notice and hearing and upon order of the commissioner, to either or both of the following:

- (1) A monetary penalty of not more than \$10,000 for each and every act in violation of the cease and desist order; or
- (2) Suspension or revocation of the person's license."

SECTION 8. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§431- Provisions of sections additional to existing laws. The powers vested in the commissioner by sections 431-643 to 431-647 shall be additional to any other power to enforce penalties, fines, or forfeitures authorized by law with respect to the methods, acts, and practices hereby declared to be unfair or deceptive."

SECTION 9. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 10. This Act shall take effect upon its approval.

(Approved June 7, 1983)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 212

H.B. NO. 3

A Bill for an Act Relating to the Tax Review Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 232E-2, Hawaii Revised Statutes, is amended to read as follows:

“[[§232E-2]] Term. [The] A commission shall be appointed on or before July 1, 1980, and a new commission shall be appointed on or before July 1 every five years thereafter[. It]; provided that if any vacancy occurs in the membership of a commission prior to the completion of its duties or dissolution, the governor shall appoint a replacement member in accordance with sections 232E-1 and 26-34. The commission shall meet from time to time as necessary to execute its duties. Upon completion of its duties, the commission shall dissolve.”

SECTION 2. Section 232E-3, Hawaii Revised Statutes, is amended to read as follows:

“[[§232E-3]] Duties. The commission shall conduct a systematic review of the State’s tax structure, using such standards as equity and efficiency. [One hundred twenty] Thirty days prior to the convening of the second regular session of the legislature after the members of the commission have been appointed, the commission shall submit to the legislature an evaluation of the State’s tax structure and recommend revenue and tax policy[.], except that for the commission appointed on or before July 1, 1980, or the replacement commission intended to function prior to the appointment of a new commission on or before July 1, 1985, the commission shall submit the required evaluation and recommendations to the legislature thirty days prior to the convening of the regular session of 1985.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000, or so much thereof as may be necessary, to carry out the purposes of chapter 232E, Hawaii Revised Statutes, including the hiring of necessary staff. The sum appropriated shall be expended by the department of taxation. As of the close of business on December 31, 1984, the unexpended or unencumbered balance of the appropriation made by this Act shall lapse into the general fund.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 8, 1983)

A Bill for an Act Relating to the Department of Social Services and Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-10, Hawaii Revised Statutes, is amended to read as follows:

"§346-10 Protection of records; divulging confidential information prohibited. (a) The department of social services and housing and its agents shall keep such records as may be necessary or proper in accordance with this chapter. All applications and records concerning any applicant or recipient shall be confidential. The use or disclosure of information concerning applicants and recipients shall be limited to:

- (1) Persons duly authorized by the State or the United States in connection with their official duties, when the official duties are directly connected with the administration of any form of public assistance, medical assistance, or food stamps[;], or social services;¹ or
- (2) Purposes directly connected with any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any and all forms of public assistance, food stamps, or medical assistance, or social services, including but not limited to disclosure by the department of information and documents to police departments, [prosecutor's] prosecutors' offices, the attorney general's office, or any other state, county, or federal agency engaged in the detection, investigation, or prosecution of violations of applicable state, county, and federal laws or regulations regarding any and all aspects of theft, fraud, deception, or overpayment in connection with any aspect of public assistance, food stamps, [or] medical assistance[;];¹ or social services; [further,] provided that disclosure by recipient agencies and personnel is permitted under this section to the extent reasonably necessary to carry out the functions for which the information was provided;
- (3) Disclosure to the extent necessary to provide services for applicants and recipients, to determine eligibility, or to determine the amount of public assistance, such determination to include but not be limited to verification of information provided by the recipient of public assistance, medical assistance, or food stamps[;];¹ or to determine the type, kind, frequency, and amount of social services, including health and mental health related services, needed;
- (4) Disclosure to banks, financial institutions, or any other payor of a public assistance warrant or check of any and all information indicating that a public assistance warrant or check honored by the bank, institution, or payor has been forged or otherwise wrongfully presented for payment;
- (5) Federal agencies responsible for the administration of federally assisted programs, which provide assistance, in cash or in kind for services, directly to individuals on the basis of need; and certification of receipt

of aid to families with dependent children to an employer for purposes of claiming tax credit under Public Law 94-12, the Tax Reduction Act of 1975, shall be permitted; [and]

- (6) Employees acting within the scope and course of their employment of such recognized social welfare organizations as may be approved by the department[.]; and

- (7) Purposes directly connected with any investigation, prosecution, or criminal proceeding conducted in connection with the licensure or operation of an adult boarding home, or adult day care center, including but not limited to disclosure by the department of information and documents to police departments, prosecutors' offices, the attorney general's office, or any other state, county, or federal agency engaged in the detection, investigation, or prosecution of violation of applicable state, county, and federal laws or regulations.

(b) Disclosure to any committee or legislative body (federal, state, or local) of any information that identifies by name and address any such applicant or recipient; and publication of lists or names of applicants and recipients shall be prohibited.

(c) The department shall promulgate and enforce such rules as may be necessary to prevent improper acquisition or use of confidential information. Any information secured pursuant to this section by the officials or employees may be used in connection with their official duties or within the scope and course of their employment but not otherwise, and shall be kept in confidential records or files, which shall not be subject to any other law permitting inspection of public records. The department and its agents shall determine whether or not such inspection is in connection with such official duties or within the scope and course of such employment.

(d) The use of the records, and other communications of the department [of] or² its agents by any other agency or department of government to which they may be furnished, shall be limited to the purposes for which they are furnished.

(e) Confidential information shall be released if requested by specific written waiver of the applicant or recipient concerned.

(f) The identity of foster parents, adoptive parents, and foster care facility staff parents, and the location of the foster home, adoptive home, or foster care facility is confidential but may be released with the consent of the foster parent, adoptive parent, or foster care facility staff. If the department determines it is in the best interest of the child and of the adoptive parents, foster parents or facility, the identity and location of the adoptive parents or foster parents, foster home or facility may be stricken from the individual's case file or withheld from the child's parents, guardians, or other interested persons.

(g) All reports concerning adult abuse or neglect, as well as all records of such reports, are confidential and any unauthorized disclosure of a report or record of a report shall be a violation. The director of social services may adopt, amend, or repeal rules, pursuant to chapter 91, to provide for the confidentiality of reports and records and for the authorized disclosure of reports and records."

SECTION 2. Section 346-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Social services” means crisis intervention, counseling, case management, and support activities such as day care and chore services provided by the department staff, by purchase of service, or by cooperative agreement with other agencies to persons meeting specified eligibility requirements.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.³

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1983)

Notes

1. Underscore missing.
2. So in original.
3. Edited pursuant to HRS § 23G-16.5.

ACT 214

H.B. NO. 42

A Bill for an Act Relating to Feed.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Recently, problems have resulted from pesticide residues on animal feeds being passed upward through the food chain to consumer products. Under Chapter 144, Hawaii Revised Statutes, certain feed materials are excluded from sampling or testing for adulteration. Amendments to this chapter would allow the Department of Agriculture to sample and test all animal feed, other than that for domestic pets, for adulteration and remove the adulterated feed from the food chain.

SECTION 2. Chapter 144, Hawaii Revised Statutes, is amended to read as follows:

“CHAPTER 144 [FEEDING STUFFS] FEED

[§144-1 Short title. This chapter may be cited as the “Hawaii Feed Law of 1979.”]

§144[-2]-1 Administration. This chapter shall be administered by the department of agriculture, hereinafter referred to as the “department”.

§144[-3]-2 Definitions. When used in this chapter:

- (1) The term “person” includes individual, partnership, corporation, and association.
- (2) The term “distribute” means to offer for sale, sell, barter, or otherwise supply feed, commercial feeds or custom-mixed feeds. The term “distributor” means any person who distributes.
- (3) The term “sell” or “sale” includes exchange.

- (4) The term "official name" of a feed ingredient means the name of a feed ingredient which is defined in the current official publication of the Association of American Feed Control Officials, Incorporated.
- (5) The term "feed" means all edible materials consumed by animals, other than dogs, cats, or other domestic pets, which contribute energy or nutrients to the animal's diet, and which are distributed or imported.
- [(5)] (6) The term "commercial feed" means all [materials which are designed for use as] feed[, or for mixing in feed, for animals other than dogs, cats, or other domestic pets, and which are distributed or imported] except:
 - (A) Whole seeds unmixed or physically altered entire unmixed seeds, when not adulterated within the meaning of section 144-7, which are distributed for use as feed or for mixing in feed.
 - (B) Hay, straw, stover, silage, cobs, husks, and hulls (i) when unground or (ii) when unmixed with other materials.
 - (C) Wet garbage.
 - (D) Individual chemical compound when not mixed with other materials.
 - (E) Unmixed feeding cane molasses, unmixed pineapple pulp, unmixed pineapple hay, and unmixed sugarcane hay.
- [(6)] (7) The term "feed ingredient" means each of the constituent materials making up a [commercial] feed.
- [(7)] (8) The term "mineral feed" means a substance or mixture of substances designed or intended to supply primarily mineral elements or inorganic nutrients.
- [(8)] (9) The term "drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than [man] humans and articles other than feed intended to affect the structure [of] or any function of the animal body.
- [(9)] (10) The term "manufacture" means to grind, mix, or blend, or further process a commercial feed for distribution.
- [(10)] (11) The term "custom-mixed feed" means a special commercial mixture which is formulated by the manufacturer or processor in accordance with the specific instructions of the final purchaser and contains feed material or materials wholly or partly supplied by such manufacturer or processor.
- [(11)] (12) The term "toll-milled feed" means a special feed which is processed by the processor (A) from materials entirely delivered by the owner thereof or his authorized agent, and (B) in accordance with the specific instructions of such owner, and which is not distributed.
- [(12)] (13) The term "commercial mixed feed" means a commercial feed which is a mixture or blend of more than one feed ingredient.
- [(13)] (14) The term "commercial simple feed" means a commercial feed that consists of only one feed ingredient.

- [(14)] (15) The term “brand name” means any word, name, symbol, or device or any combination thereof identifying the commercial feed of a distributor and distinguishing it from that of others.
- [(15)] (16) The term “product name” means the name of the commercial feed which identifies it as to kind, class, or specific use.
- [(16)] (17) The term “label” means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed or imported, or on the invoice or delivery slip with which a commercial feed or custom-mixed feed is distributed or imported.
- [(17)] (18) The term “ton” means a net weight of two thousand pounds avoirdupois.
- [(18)] (19) The term “per cent” or “percentage” means percentage by weight.
- [(19)] (20) The term “official sample” means any sample of feed taken by the [board] department or its agent and designated as “official” by the [board of agriculture.] department.

§144[-4]-3 Registration. (a) Each commercial feed shall be registered before being distributed in this State or imported; provided that custom-mixed feed and toll-milled feed are exempt from registration. The application for registration shall be submitted on forms furnished by the department [of agriculture] and, if the department so requests, shall also be accompanied by a label or other printed matter describing the product. All registrations shall be effective for one year beginning January 1 and expiring December 31 of each year. A registration fee shall be paid to the department for each commercial feed registered. Each registration may be renewed for one year. Upon approval by the department a copy of the registration shall be furnished [[to]] the applicant. The [[application]] shall include the information required by section 144-5(a).

(b) A distributor shall not be required to register any brand of commercial feed which is already registered under this chapter by another person.

(c) Changes in the guarantee of either chemical or ingredient composition of a registered commercial feed may be permitted; provided there is satisfactory evidence that the changes would not result in a lowering of the feeding value of the product for the purpose for which designed.

(d) The department [is empowered to] may refuse registration of any application not in compliance with this chapter and [to] cancel any registration subsequently found not to be in compliance with this chapter; provided that no registration shall be refused or canceled until the registrant shall have been given an opportunity to be heard before the department and to amend his application in order to comply with the requirements of this chapter.

§144[-5]-4 Labeling. (a) Any commercial feed, other than custom-mixed or toll-milled feed, distributed in this State or imported shall be accompanied by a legible label bearing the following information:

- (1) The net weight.
- (2) The product name or brand name under which the commercial feed is distributed.

- (3) The guaranteed analysis stated in such terms as the department by rule determines is required to advise the user of the composition of the commercial feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods published by the Association of Official Analytical Chemists.
 - (4) The common or official name of each ingredient used in the manufacture of the commercial feed, except as the department may, by rule, permit the use of a collective term for a group of ingredients all of which perform the same function.
 - (5) The name and principal address of the person responsible for distributing the commercial feed.
 - (6) Adequate directions for use for all commercial feeds containing drugs and for such other commercial feeds as the department may require by rule as necessary for their safe and effective use.
 - (7) Such precautionary statements as the department by rule determines are necessary for the safe and effective use of the commercial feed.
- (b) When a commercial feed is distributed in this State in bags or other containers, the label shall be placed on or affixed to the container; when a commercial feed is distributed in bulk the label shall accompany delivery and be furnished to the purchaser at time of delivery.
- (c) A custom-mixed feed shall be labeled by numbered invoice. The invoice, which is to accompany delivery and be supplied to the purchaser at the time of delivery, shall bear the following information:
- (1) Name and address of the mixer.
 - (2) Name and address of the purchaser.
 - (3) Date of sale.
 - (4) Product name and brand name, if any, of each registered commercial feed used in the mixture and the name and number of pounds of each other feed ingredient added.
 - (5) The term "custom-mixed feed."
 - (6) Adequate directions for use for all custom-mixed feeds containing drugs and for such other custom-mixed feeds as the department may require by rule as necessary for their safe and effective use.
 - (7) Such precautionary statements as the department by rule determines are necessary for the safe and effective use of the custom-mixed feed.
- (d) A toll-milled feed shall be labeled with the term, "toll-milled feed" and the name and address of the owner thereof.
- (e) If a commercial, custom-mixed, or toll-milled feed contains (1) a nonnutritive substance which is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or which is intended to affect the structure or any function of the animal body or (2) a food additive, the department may require the label of the commercial or toll-milled feed, or the invoice of the custom-mixed feed to show the amount present, directions for use, [and/or] or warnings against misuse [of the feed].
- (f) Whenever a manufacturer, processor, mixer, or distributor of feed makes a claim or guarantee relative to the content of the feed on or with the package

containing the same, which claim or guarantee is in addition to those required by law, he shall be responsible for maintaining the claim or guarantee, and may be required to submit information and records pertinent to the claim or guarantee.

§144[-6]-5 [[NEW]] Inspection fees. (a) There shall be paid to the department [of agriculture] for all commercial feeds distributed or imported for use or sale in this State an inspection fee; provided that custom-mixed feeds are exempted if the inspection fee is paid on the commercial feeds which they contain; and provided further that sales of commercial feeds to manufacturers or exchanges between them are exempted if the commercial feeds so sold or exchanged are used solely in the manufacture of commercial feeds which are registered; and provided further that a distributor shall pay an annual registration fee for each brand of commercial feed distributed in individual packages of ten pounds or less, and the distributor of the brand shall not be required to pay the inspection fee on the packages of the brand so registered; and provided further that toll-milled feeds are exempted. All fees collected shall be deposited with the state director of finance to the credit of the general fund.

(b) Every person, except as hereinafter provided, who distributes or imports for use or sale commercial or custom-mixed feed in this State shall:

- (1) File, not later than the last day of January, last day of April, last day of July, and last day of October of each year, quarterly statements, setting forth the number of net tons of commercial or custom-mixed feeds distributed or imported in this State during the preceding calendar quarter; and upon filing the statements shall pay the inspection fee. Inspection fees which are due and owing and have not been remitted to the department within thirty days following the due date shall have a penalty fee of five per cent added to the amount due when payment is finally made. The assessment of this penalty fee shall not prevent the department from taking other action as provided in this chapter. When more than one person is involved in the distribution or importation of a commercial feed, the person who imports or distributes to the consumer is responsible for reporting the tonnage and paying the inspection fee unless the report and payment have been made by a prior distributor, seller, or exporter of the commercial feed. If the inspection fee has been paid on a commercial simple feed which is subsequently converted into a commercial mixed or custom-mixed feed for distribution, the person responsible for the mixing shall be required to pay an additional inspection fee per ton on the amount of commercial simple feed that has been so converted.
- (2) Keep such records as may be necessary or required by the department to indicate accurately the tonnage of commercial or custom-mixed feed distributed in this State, and the department shall have the right to examine the records to verify statements of tonnage. Failure to make accurate statement of tonnage or to pay the inspection fee or to comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

(c) The department may require the filing of further reports with respect to importation and distribution of [commercial or custom-mixed feeds] feed by carriers, seller's agents, distributors, and named consignees.

§144-[-7]-6 Adulteration. A [commercial] feed shall be deemed to be adulterated:

- (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such [commercial] feed shall not be considered adulterated under this section if the quantity of such substance in such [commercial] feed does not ordinarily render it injurious to health;
- (2) If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of section 406 of the Federal Food, Drug, and Cosmetic Act (other than one which is (A) a pesticide chemical in or on a raw agricultural commodity; or (B) a food additive);
- (3) If it is, or it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;
- (4) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of section 408(a) of the Federal Food, Drug, and Cosmetic Act; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity, unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of section 408(a) of the Federal Food, Drug, and Cosmetic Act;
- (5) If it is, or it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act;
- (6) If any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor;
- (7) If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;
- (8) If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice [regulations promulgated] rules

adopted by the department to assure that the drug meets the requirement of this chapter as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess. In [promulgating] adopting such [regulations,] rules, the department shall adopt the current good manufacturing practice regulations for medicated feed premixes and for medicated feeds established under authority of the Federal Food, Drug, and Cosmetic Act, unless it determines that they are not appropriate to the conditions which exist in this State; or

- (9) If it contains viable weed seeds in amounts exceeding the limits which the department shall establish by rule [and regulation].

§[144-8]-7 Misbranding. No person shall distribute or import misbranded feed. A commercial, toll-milled, or custom-mixed feed shall be deemed to be misbranded:

- (1) If its labeling is false or misleading in any particular.
- (2) If it is distributed under the name of another feed.
- (3) It it is not labeled as required in section 144-5 and in rules prescribed under this chapter.
- (4) If it purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a feed ingredient, unless such commercial feed or feed ingredient conforms to the definition of identity, if any, prescribed by rules of the department [of agriculture]. In the adoption of such rules the department shall give due regard to commonly accepted definitions such as those issued by the Association of []American[] Feed Control Officials.
- (5) If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

§144[-9]-8 Prohibited acts. The following acts and the causing thereof within this State by any person are prohibited:

- (1) The manufacture or distribution of any [commercial] feed that is adulterated or misbranded.
- (2) The adulteration or misbranding of any [commercial] feed.
- (3) The removal or disposal of a [commercial] feed in violation of an order under section 144-12.
- (4) The failure or refusal to register in accordance with section 144-4.
- (5) The violation of section 144-13(f).
- (6) Failure to pay inspection fees and file reports as required by section 144-6.
- (7) The refusal to permit entry upon any public or private premises including any vehicle of transport during business hours in order that the department [of agriculture] or its authorized agents can have access to any feed and to records relating to the feed.

- (8) The distribution of any toll-milled feed.
- (9) The redistribution of any custom-mixed feed.
- (10) The distribution within the State or importation into the State of commercial feeds, other than custom-mixed feed, which have not been registered in the manner provided in this chapter.
- (11) The distribution within this State or importation into the State of commercial or custom-mixed feeds which have not been labeled in the manner provided in this chapter.
- (12) The storage or transportation of toll-milled feeds which have not been labeled in the manner provided in this chapter.

§144[-10]-9 Inspection, sampling, analysis. (a) For the purpose of enforcement of this chapter, and in order to determine whether its provisions have been complied with, including whether or not any operation may be subject to such provisions, officers or employees duly designated by the department, upon presenting appropriate credentials, are authorized:

- (1) To enter, during normal business hours, any factory, warehouse, or establishment within the State in which [commercial] feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds; and
- (2) To inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of only such records, and production and control procedures as may be necessary to determine compliance with the good manufacturing practice rules established under section 144-7(8).
- (b) If the officer or employee making such inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.
- (c) If the owner of any factory, warehouse, or establishment described in subsection (a), or his agent, refuses to admit the officer or his agent to inspect in accordance with subsection (a), the department may obtain from any state court a warrant directing such owner or his agent to submit the premises described in such warrant to inspection.

(d) For the enforcement of this chapter, the department or its duly designated agent may enter upon any public or private premises, including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of [commercial] feeds.

(e) Sampling and analysis shall be conducted in accordance with methods published by the Association of Official Analytical Chemists or in accordance with other generally recognized methods.

(f) The results of all analyses of official samples shall be forwarded by the department to the person named on the label or to the purchaser. When the inspection and analysis of an official sample indicates [commercial] feed has been

adulterated or misbranded and upon request within thirty days following receipt of the analysis, the department shall furnish to the registrant a portion of the sample concerned.

(g) The department, in determining for administrative purposes whether a commercial feed is deficient or excessive in any component, shall be guided by the official sample as defined in section 144-3(19) and obtained and analyzed as provided for in subsections (b), (d), and (e) of this section.

§144[-11]-10 Rules [and regulations]. (a) The department may adopt such rules [and regulations] for [commercial] feeds as are specifically authorized in this chapter and such other reasonable rules [and regulations] as may be necessary for the efficient enforcement of this chapter. In the interest of uniformity the department shall by rule adopt, unless it determines that they are inconsistent with [the provisions of] this chapter or are not appropriate to conditions which exist in this State, the following:

- (1) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization; and
 - (2) Any regulation promulgated pursuant to the authority of the Federal Food, Drug, and Cosmetic Act, provided that the department shall have the authority under this chapter independently to adopt such regulations.
- (b) The department shall enforce this chapter and, subject to chapter 91, may adopt rules [and regulations] with respect to:
- (1) Providing for registration and inspection fees;
 - (2) Providing for penalties for deficiencies of official samples[;] and other violations of this chapter;
 - (3) Determining responsibilities and procedures for payment of registration, inspection, and penalty fees;
 - (4) Such other matters as may be necessary in order to secure the efficient administration of this chapter.

§144[-12]-11 Detained [commercial] feeds. (a) "Withdrawal from distribution" orders. When the department [of agriculture] or its authorized agent has reasonable cause to believe any lot of feed is being distributed in violation of this chapter or of any of the prescribed [regulations] rules under this chapter, it may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of feed in any manner until written permission is given by the department or the circuit court. The department shall release the lot of feed so withdrawn when the chapter and [regulations] rules have been complied with. If compliance is not obtained within thirty days, the department may begin, or upon request of the distributor or owner shall begin, proceedings for condemnation.

(b) "Condemnation and confiscation". Any lot of feed not in compliance with the chapter and [regulations] rules shall be subject to seizure on complaint of the department to a court of competent jurisdiction in the area in which the feed is located. In the event the court finds the feed to be in violation of this chapter and rules and orders the condemnation of the feed, it shall be disposed of in any manner

consistent with the quality of the feed and the laws of the State; provided that in no instance shall the disposition of the feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the feed or for permission to process or relabel the feed to bring it into compliance with this chapter.

§144[-13]-12 Penalties. (a) Any person convicted of violating any of the provisions of this chapter or the rules [and regulations] issued thereunder or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent the department [of agriculture] or its duly authorized agent in performance of his duty in connection with this chapter, shall be adjudged guilty of a misdemeanor [and shall be fined not less than \$50 or more than \$100 for the first violation, and not less than \$100 or more than \$500 for a subsequent violation]. In all prosecutions under this chapter involving the composition of a lot of feed, a certified copy of the official analysis signed by the chemist shall be accepted as prima facie evidence of the composition.

(b) Nothing in this chapter shall be construed as requiring the department or its representative to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the chapter when he believes that the public interest will be best served by a suitable notice of warning in writing.

(c) Each county attorney or prosecuting attorney to whom any violation is reported shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the department reports a violation for prosecution, an opportunity shall be given the distributor or owner to present his view to the department.

(d) The department may apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule [or regulation] promulgated under the chapter notwithstanding the existence of other remedies at law. The injunction is to be issued without bond.

(e) Any person adversely affected by an act, order, or ruling made pursuant to this chapter may within forty-five days thereafter bring action in the circuit court for new trial of the issues bearing upon the act, order, or ruling, and upon trial the court may issue and enforce such orders, judgments, or decrees as the court may deem proper, just, and equitable.

(f) Any person who uses to his advantage, or reveals to other than departmental officers or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this chapter, concerning any method, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a misdemeanor [and shall on conviction thereof be fined not less than \$100 or imprisoned for not less than thirty days, or both]; provided that this prohibition shall not be deemed as prohibiting the department, or its duly authorized agent, from exchanging information of a regulatory nature with duly appointed officials of the United States government, or of other states, who are similarly prohibited by law from revealing this information.

§144[-14]-13 Cooperation with other entities. The department may cooperate with and enter into agreements with governmental agencies of this State, other

states, agencies of the federal government, and private associations to carry out the purpose and provisions of this chapter.

§144[-15]-14 Publications. The department [of agriculture] shall publish at least annually in such forms as it may deem proper, information concerning the distribution of feeds, together with such data on their production and use as it may consider advisable, and a report of the results of the analyses of official samples of feeds distributed within the State as compared with the analyses guaranteed in the registration and on the label; provided that the information concerning production and use of feeds shall not disclose the operations of any person."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

ACT 215

H.B. NO. 44

A Bill for an Act Relating to Agricultural Planning and Development.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to provide for recognition of agricultural planning and development among the general duties of the department of agriculture.

SECTION 2. Section 141-1 Hawaii Revised Statutes, is amended to read:

"§141-1 Duties in general. The department of agriculture shall:

- (1) Information and statistics. Gather, compile, and tabulate, from time to time, information and statistics concerning:
 - (A) Entomology and plant pathology. Insects, scales, blights, and diseases injurious, or liable to become injurious, to trees, plants or other vegetation, the ways and means of exterminating such pests and diseases as are already in the State and preventing the introduction of those not yet here;
 - (B) General agriculture. Fruits, fibres, and useful or ornamental plants and their introduction, development, and care, and concerning the manufacture or exportation of the same with a view to introducing, establishing, and fostering new and valuable plants and industries.
- (2) Cooperation with other organizations. In all respects endeavor, as far as possible, to encourage and work in harmony and cooperate with the federal Agricultural Experiment Station established in the State and all private persons or organizations doing work of an experimental or educational character coming within the scope of the subject matter of chapters 141, 142, and 144 to 149A, and to avoid, as far as practicable, duplicating the work of such persons or organizations;
- (3) Agreements with other organizations. Upon approval of the governor, enter into contracts, cooperative agreements, or other transactions with

any person, agency, or instrumentality of the United States, a foreign nation, a state, a territory, or a possession, or with any political subdivision thereof, as may be necessary in the conduct of the department's business and on such terms as the department may deem appropriate; provided that the department shall not obligate any funds of the State, except the funds that have been appropriated to the department;

- (4) Library. Secure copies of the laws of other states, territories, and countries, and other publications germane to the subject matters of chapters 141, 142, and 144 to 149A and make the same available for public information and consultation;
- (5) Buildings and apparatus. Provide such buildings, grounds, apparatus, and appurtenances as may be necessary or proper for the examination, quarantine, inspection, and fumigation provided for by chapters 141, 142, and 144 to 149A; and for the obtaining, propagation, study, and distribution of beneficial insects, growths, and antidotes for the eradication of insects, blights, scales, or diseases injurious to vegetation of value and for the destruction of injurious vegetation; and also any other apparatus or appurtenances necessary or proper for the purposes of carrying chapters 141, 142, and 144 to 149A into execution;
- (6) Further legislation. Formulate and from time to time recommend to the governor and legislature such additional legislation as it deems necessary or desirable for the better securing of the objects of chapters 141, 142, and 144 to 149A;
- (7) Annual reports. Make and publish, at the end of each year, a report of the expenditures and proceedings of the department and of the results achieved by the department, together with such other matters as are germane to the subject matter of chapters 141, 142, and 144 to 149A, and which the department may deem proper[.];
- (8) Planning and development. Administer a program of agricultural planning and development, including the formulation and implementation of general and special plans, including but not limited to the functional plan for agriculture; review, interpret, and make recommendations with respect to public policies and actions relating to agricultural land use; assist in research, evaluation, development, enhancement, and expansion of local agricultural industries; and serve as liaison with other public agencies and private organizations for the above purposes. In the foregoing, the department of agriculture shall act to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and ensure the availability of agriculturally suitable lands."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

A Bill for an Act Relating to te Determination of Death.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 327C-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as provided in subsection (b) of this section, a person shall be considered dead if, in the announced opinion of a physician licensed under part I of chapter 453 or chapter 460, or excepted from licensure by section 453-2(3), based on ordinary standards of current medical practice, the person has experienced irreversible cessation of spontaneous respiratory and circulatory functions[.], or irreversible cessation of all functions of the entire brain, including the brain stem. Death will have occurred at the time when the irreversible cessation of the functions first coincided.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

“CHAPTER ESTATE AND TRANSFER TAX

§ -1 **Short title.** This chapter may be cited as the “Estate and Transfer Tax Reform Act of 1983”.

§ -2 **Definitions.** As used in this chapter:

“Decedent” means a deceased individual;

“Department” means the department of taxation;

“Federal credit” means the maximum amount of the credit for estate death taxes allowed by section 2011 for the decedent’s adjusted taxable estate;

“Gross estate” means gross estate as defined and used in sections 2031 to 2045 of the federal Internal Revenue Code of 1954, as amended or renumbered;

“Nonresident” means a decedent who was not domiciled in Hawaii at time of death;

“Person” means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or

other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof;

"Personal representative" means the personal representative of a decedent appointed under chapter 560, and includes an executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status;

"Property" means property included in the gross estate;

"Release" means a document issued by the department which certifies that all taxes have either been paid or which releases the estate from all taxes due under this chapter;

"Resident" means a decedent who was domiciled in Hawaii at time of death;

"Section 2011" means section 2011 of the federal Internal Revenue Code of 1954, as amended or renumbered; and

"Taxable estate" means taxable estate as defined in sections 2051 to 2056 of the federal Internal Revenue Code of 1954, as amended or renumbered;

"Transfer" means transfer as defined and used in section 2001 of the federal Internal Revenue Code of 1954, as amended or renumbered.

§ -3 **Residents; tax imposed; credit for tax paid other state.** (a) A tax in an amount equal to the federal credit is imposed on the transfer of the taxable estate of every resident.

(b) If any property of a resident is subject to a death tax imposed by another state for which a credit is allowed by section 2011; and, if the tax imposed by the other state is not qualified by a reciprocal provision allowing the property to be taxed in the state of decedent's domicile, the amount of the tax due under this section shall be credited with the lesser of:

- (1) The amount of the death tax paid the other state and credited against the federal estate tax; or
- (2) An amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property subject to the death tax imposed by the other state, and the denominator of which is the value of the decedent's gross estate.

§ -4 **Nonresidents; tax imposed; exemption.** (a) A tax in an amount computed as provided in this section is imposed on the transfer of the taxable estate located in Hawaii of every nonresident.

(b) The tax shall be computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property located in Hawaii, and the denominator of which is the value of the decedent's gross estate.

(c) The transfer of the property of a nonresident is exempt from the tax imposed by this section to the extent that the property of residents is exempt from taxation under the laws of the state in which the nonresident is domiciled, except that:

- (1) Real property having an actual situs in this State, whether or not held in a trust the corpus of which is included in a decedent's gross estate for federal estate tax purposes;
- (2) A beneficial interest in a land trust which owns real property located in the State; and

(3) Tangible personal property having an actual situs in this State; shall be subject to tax under this section.

§ -5 Tax reports; date to be filed; extensions. (a) The personal representative of every estate subject to the tax imposed by this chapter who is required by the laws of the United States to file a federal estate tax return shall file with the department on or before the date the federal estate tax return is required to be filed, including any extension of time for filing the federal estate tax return:

(1) A report for the taxes due under this chapter; and

(2) A true copy of the federal estate tax return.

(b) If the personal representative has obtained an extension of time for filing the federal return, the filing required by subsection (a) shall be extended similarly until the end of the time period granted in the extension of time for the federal return. A true copy of the extension shall be filed with the department within thirty days of issuance.

(c) No Hawaii report need be filed if the estate is not subject to the tax imposed by this chapter.

(d) If the estate is not subject to the tax imposed by this chapter, the personal representative may apply to the department for the issuance of the release provided in this chapter. The release, when issued, shall indicate that it has been determined that the estate is not subject to the tax and that the estate and the personal representative are free of any claim by the State for taxes owed under this chapter.

§ -6 Date payment due; date deemed received. (a) The taxes imposed by this chapter shall be paid by the personal representative to the department on or before the date the return for the taxes is required to be filed under section -5.

(b) For the purposes of this chapter, the timely filing of any tax return, claim, statement, report, or other document required or authorized to be filed with, or the timeliness of any payment made to, the department and any notice required or authorized to be given by the department shall be governed by chapter 231.

§ -7 Interest on amount due; extension of time to file federal return. (a) Any tax due under this chapter which is not paid by the time prescribed for the filing of the report as provided in section -5, not including any extension in respect to the filing of the report or the payment of the tax, shall bear interest at the rate in section 231-39(b)(4) from the date any tax is due until paid.

(b) If the report provided for in section -5 is not filed within the time periods specified, then the personal representative shall pay, in addition to the interest provided in this section, a penalty equal to five per cent of the tax due in respect to the transfer for each month beyond the time periods that the report has not been filed, but no penalty so imposed shall exceed a total of twenty-five per cent of the tax.

(c) If the personal representative has obtained an extension of time for payment of the federal tax, the personal representative may elect to extend the time for payment of the tax due under this chapter in accordance with the extension. The election shall be made by filing a true copy of the extension of time for payment with the report and the returns required under section -5.

§ -8 Department to issue release; final settlement of account. (a) The department shall issue an automatic release to the personal representative when:

(1) No tax is imposed by this chapter and upon the receipt of a request for a release, if the release includes the sworn statement of the personal representative or agent that in fact no taxes are due; or

(2) The taxes due under this chapter have been paid as prescribed in section -5, and the request for a release includes the sworn statement of the personal representative that in fact all taxes due have been paid.

(b) The obtaining of a release shall give to the personal representative sufficient authority to effectuate the transfer of all property composing the decedent's estate.

§ -9 Amended returns; final determination. (a) If the personal representative files an amended federal return, the personal representative immediately shall file with the department an amended Hawaii report with a true copy of the amended federal return. If the personal representative is required to pay an additional tax under this chapter pursuant to the amended return, the personal representative shall pay the additional tax, together with interest as provided in section -7, at the same time the personal representative files the amended return, subject to any extension election under section -7.

(b) Upon final determination of the federal tax due with respect to any transfer, the personal representative, within sixty days after the determination, shall give written notice of the determination to the department in such forms as may be prescribed. If any additional tax is due under this chapter by reason of the determination, the personal representative shall pay the tax, together with interest as provided in section -7, at the same time the personal representative files the notice, subject to any extension election under section -7.

§ -10 Administration; rules. The department shall adopt such rules under chapter 91 as may be necessary to carry into effect this chapter, including rules relating to the return for taxes due under this chapter.

§ -11 Sale of property to pay tax; creation of lien. (a) subject to chapter 560 and section 531-29, as applicable, a personal representative may sell so much of any property as is necessary to pay the taxes due under this chapter. A personal representative may sell so much of any property specifically bequeathed or devised as is necessary to pay the proportionate amount of the taxes due on the transfer of the property and the fees and expenses of the sale, unless the legatee or devisee thereof pays the personal representative the proportionate amount of the taxes due.

(b) Unless any tax due is sooner paid in full, it shall be a lien upon the gross estate of the decedent for a period of ten years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of the lien. Liens created under this subsection shall be qualified as follows:

(1) The limitation period, as described in this subsection, in each case shall be extended for a period of time equal to the period of pendency of litigation of questions affecting the determination of the amount of tax due; provided a lis pendens has been filed with the bureau of conveyances or land court in the county in which the property is located;

- (2) Any part of the gross estate which is transferred to a bona fide purchaser shall be divested of the lien and the lien shall be transferred to the proceeds arising out of the transfer; and
- (3) A mortgage on property pursuant to an order of court for payment of charges against the estate and expenses of administration shall constitute a lien upon the property prior and superior to the tax lien, which tax lien shall attach to the proceeds.

§ -12 Liability for failure to pay tax before distribution or delivery.

(a) Any personal representative who distributes any property without first paying, securing another's payment of, or furnishing security for payment of the taxes due under this chapter is personally liable for the taxes due to the extent of the value of any property that may come or may have come into the possession of the personal representative. Security for payment of the taxes due under this chapter shall be in an amount equal to or greater than the value of all property that is or has come into the possession of the personal representative, as of the time the security is furnished.

(b) Any person who has the control, custody, or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent outside Hawaii without first paying, securing another's payment of, or furnishing security for payment of the taxes due under this chapter is liable for the taxes due under this chapter to the extent of the value of the property delivered. Security for payment of the taxes due under this chapter shall be in an amount equal to or greater than the value of all property delivered to the personal representative or legal representative of the decedent outside Hawaii by such a person.

(c) For the purpose of this section, persons who do not have possession of a decedent's property include anyone not primarily responsible for paying the tax due under this section or their transferees, which includes but is not limited to mortgagees or pledgees, stockbrokers or stock transfer agents, banks, and other depositories of checking and savings accounts, safe-deposit companies, and life insurance companies.

(d) For the purposes of this section, any person who has the control, custody, or possession of any property and who delivers any of the property to the personal representative or legal representative of the decedent may rely upon the release furnished by the department to the personal representative as evidence of compliance with the requirements of this chapter, and make such deliveries and transfers as the personal representative may direct without being liable for any taxes due under this chapter.

§ -13 Refund for overpayment. Whenever the tax due under this chapter is proved to have been overpaid, the department shall refund the amount of the overpayment, together with interest at the then existing statutory rate of interest in the manner provided in section 231-23(d). No claim for refund may be initiated more than two years after the date the federal tax has been finally determined.

§ -14 Criminal acts relating to estate tax returns. Any person who wilfully fails to file an Hawaii estate tax return when required by this chapter or who wilfully files a false return commits a misdemeanor.

§ -15 Administration by department; action for collection of tax; appeal. The department may collect the tax provided for in this chapter, including applicable interest and penalties, and shall represent this State in all matters pertaining to this chapter, either before courts or in any other manner. The department, through the attorney general, may institute proceedings for the collection of this tax and any interest and penalties on the tax.

The circuit court for any county which has assumed lawful jurisdiction over the property of the decedent for general probate or administration purposes under the laws of Hawaii shall have jurisdiction to hear and determine all questions in relation to the tax arising under this chapter. If no probate or administration proceedings have been taken out in any court of this State, the circuit court for the county in which the decedent was a resident, if the decedent was a domiciliary, or, if the decedent was a nondomiciliary, any court which has sufficient jurisdiction over the property of the decedent, the transfer of which is taxable, to issue probate or administration proceedings thereon, had the same been justified by the legal status of the property or had the same been applied for, shall have jurisdiction. Any such court first acquiring jurisdiction shall retain the same to the exclusion of every other.

§ -16 Expenses of court proceeding. Whenever a circuit court certifies that there was probable cause for issuing a citation and taking proceedings under this chapter, the director of finance shall pay from the tax reserve fund provided in section 231-23(d)(2), or allow, all expenses incurred for services of citation and other lawful disbursements that have not otherwise been paid.

§ -17 Who liable, amount. Every person who fails or refuses to perform, within a reasonable time, any and every duty required by this chapter, or who fails or refuses to make and deliver within a reasonable time any statement or record required by this chapter, shall forfeit to the State the sum of \$1,000, to be recovered in an action brought by the attorney general in the name of the State.

§ -18 Disposition of revenues. All moneys collected under this chapter shall be state realizations, to be kept and accounted for as provided by law."

SECTION 2. Section 231-1, Hawaii Revised Statutes, is amended to read:

"§231-1 Definitions. Whenever used in chapters 231 to 249[:] and :

"Assessor" or "assistant assessor" means the assessor or an assistant assessor appointed for the taxation district concerned. Whenever there is more than one assessor for the first district, with respect to that district "assessor" or "assistant assessor" means the assessor or assistant assessor for a particular tax.

"Comptroller" means the comptroller of the State.

"Department" means the department of taxation, unless the context clearly indicates otherwise.

"Property" or "real property" has the meaning defined by section 246-1, and, to the extent required by provisions making applicable to other chapters, this chapter, or chapters 232, 233, 235 to 239, 241 to 246, and , also means and includes other subjects or measures of tax."

SECTION 3. Section 231-3, Hawaii Revised Statutes, is amended to read:

"§231-3 Department, general duties and powers. The department of taxation shall have the following duties and powers, in addition to any others prescribed or granted by this chapter:

- (1) **Assessment:** To assess, pursuant to law, all real property for taxation and to make any other assessment by law to be made by the department;
- (2) **Collections:** To be responsible for the collection of all taxes imposed by chapters 231 to 249[,] and _____, except those which by law are to be collected by county treasurers, and for such other duties as are provided by law;
- (3) **Construction of revenue laws:** To construe the tax and revenue laws, the administration of which is within the scope of the department's duties, whenever requested by any officer acting under such laws, or by an interested person;
- (4) **Enforcement of penalties:** To see that penalties are enforced when prescribed by any tax or revenue law of the State (the administration of which is within the scope of the department's duties) for disobedience or evading of its provisions, and to see that complaint is made against persons violating any such law; in the execution of these powers and duties the department may call upon the attorney general or any of his deputies, including the county attorneys or public prosecutors, whose duties it shall be to assist in the institution and conduct of all proceedings or prosecutions for penalties and forfeitures, liabilities, and punishments for violation of the laws in respect to the assessment and taxation of property;
- (5) **Forms:** To prescribe forms to be used in or in connection with such assessment, including forms to be used in the making of returns by taxpayers or in any other proceedings connected with the assessment, and to change the same from time to time as deemed necessary;
- (6) **Inspection, examination of records:** To inspect and examine the records of all public officers without charge, and to examine the books and papers of account of any person for the purpose of enabling the department to obtain all information that could in any manner aid the department in discharging its duties under any tax law;
- (7) **Recommendations for legislation:** To recommend to the governor such amendments, changes, or modifications of the laws as may seem proper or necessary to remedy injustice or irregularity in taxation or to facilitate the assessment of property for taxation or any other assessment of or for taxes;
- (8) **Report to governor:** To report to the governor annually, and at such other times and in such manner as the governor may require, concerning the acts and doings and the administration of the department, and such other matters of information concerning taxation as may be deemed of general interest;
- (9) **Rules and regulations:** To make such rules and regulations as the department may deem proper effectually to carry out the purposes for

which the department is constituted and to regulate matters of procedure by or before the department;

- (10) **Compromises:** With the approval of the governor, to compromise any claim arising under any tax law the administration of which is within the scope of the department's duties; and in any such case there shall be placed on file in the department's office a statement of (A) the amount of tax assessed, or proposed to be assessed, (B) the amount of penalties and interest imposed or which could have been imposed by law with respect to the preceding item, as computed by the department, (C) the total amount of liability as determined by the terms of the compromise, and the actual payments made thereon with the dates thereof, and (D) the reasons for the compromise;
- (11) **Retroactivity of rulings:** To prescribe the extent, if any, to which any ruling, regulation, or construction of the tax laws, of general application, shall be applied without retroactive effect;
- (12) **Remission of delinquency penalties and interest:** Except in cases of fraud or wilful violation of the laws or wilful refusal to make a return setting forth the information required by law (but inclusion in a return of a claim of nonliability for the tax shall not be deemed a refusal to make a return), the department may remit any amount of penalties or interest added, under any law administered by the department, to any tax that is delinquent for not more than ninety days, in a case of excusable failure to file a return or pay a tax within the time required by law, or in a case of uncollectibility of the whole amount due; and in any such case there shall be placed on file in the department's office a statement showing the name of the person receiving such remission, the principal amount of the tax, and the year or period involved;
- (13) **Closing agreements:** To enter into an agreement in writing with any taxpayer or other person relating to the liability of such taxpayer or other person, under any law the administration of which is within the scope of the department's duties, in respect of any taxable period, or in respect of one or more separate items affecting the liability for any taxable period; such agreement, signed by or on behalf of the taxpayer or other person concerned, and by or on behalf of the department, shall be final and conclusive, and except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, (A) the matters agreed upon shall not be reopened, and the agreement shall not be modified, by any officer or employee of the State, and (B) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded;
- (14) **Other powers and duties:** In addition to the powers and duties contained in this chapter, the powers and duties contained in chapter 246 for levying, assessing, collecting, receiving, and enforcing payments of the tax imposed thereunder, and otherwise relating thereto, shall be severally and respectively conferred, granted, practiced, and exercised

for levying, assessing, collecting, and receiving and enforcing payment of the taxes imposed under the authority of chapters 235, 237 to 239, [and] 243 to 245, and , as far as the provisions of chapter 246 are not superseded by and are consistent with the express provisions of those chapters, as fully and effectually to all intents and purposes as if the same powers and authorities were repeated in those chapters, with reference to those taxes, and all of the provisions and regulations prescribed under chapter 246, except as aforesaid, shall be applied, construed, deemed, and taken to refer to the taxes imposed under the authority of those chapters, in like manner."

SECTION 4. Section 231-6, Hawaii Revised Statutes, is amended to read:

"§231-6 Oaths, power to administer. The department of taxation may administer all oaths or affirmations required to be taken or be administered under chapters 231 to 249 and with respect to any matters coming within the scope of the duties of the department."

SECTION 5. Section 231-12, Hawaii Revised Statutes, is amended to read:

"§231-12 District judges; jurisdiction over misdemeanors and actions for tax collections. Except as otherwise specifically provided by chapters 231 to 249[,] and , the several district judges shall have jurisdiction to try misdemeanors arising under such chapters and all complaints for the violation of such chapters and to impose any of the penalties therein prescribed, and shall also have jurisdiction to hear and determine all civil actions and proceedings for the collection and enforcement of collection and payment of all taxes assessed thereunder, and all actions or judgments obtained in tax actions and proceedings, notwithstanding the amount claimed."

SECTION 6. Section 231-23, Hawaii Revised Statutes, is amended by amending subsection (d) to read:

"(d) This subsection shall apply to all taxes.

- (1) All refunds shall be paid only upon a form to be known as a "refund voucher" prepared by the collector. The refund vouchers shall set forth all the details of each transaction, shall be approved by the director, and shall be forwarded to the comptroller from time to time. The comptroller shall issue his warrant, in the form prescribed by section 40-52, for the payment of any such refund out of the tax reserve fund hereinafter created; provided that if the person entitled to the refund is delinquent in the payment of any tax, the comptroller, upon demand of the collector and after notice to the delinquent taxpayer, shall withhold the amount of the delinquent taxes, together with penalties and interest thereon, from the amount of the refund and pay the same to the collector.
- (2) There is hereby appropriated, from the general revenues of the State not otherwise appropriated, the sum of \$25,000 which shall be set aside as a special fund to be known as the tax reserve fund. All refunds of taxes collected under chapters 235 to 239, 241, [and] 243 to 246, and , heretofore made out of the reserve funds in chapters 235[, 236,]

and 237 or from the general fund shall be made out of the tax reserve fund. The director of taxation may, from time to time, deposit taxes collected by him under the chapters enumerated in the immediately preceding sentence in the state treasury to the credit of the tax reserve fund so that there may be maintained at all times a fund not exceeding \$25,000. The amounts deposited shall be made from the taxes with respect to which a particular refund is made, but in the case of a real property tax refund, from the next collection of real property taxes of the taxation division in which the property which was the subject of the refund is situated."

SECTION 7. Section 235-3, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

"(b) The Internal Revenue Code, so far as made applicable by this chapter, is a statute adopted and incorporated by reference. Whenever, in the Internal Revenue Code, the words "Secretary or his delegate", or words of like import are used, such words [shall be deemed to] mean the director of taxation and his duly authorized subordinates, and the words "estate taxes" [shall be deemed to] mean the [inheritance and] estate [taxes] and transfer tax imposed by chapter [236.] ____."

2. By amending subsection (e) to read:

"(e) In the determination of the basis or adjusted basis of any stock, securities, or other property:

- (1) If the property was acquired by an exchange (including an involuntary conversion or the sale of an old residence and purchase of a new residence where both occur within a one-year period) the "cost" thereof to the taxpayer shall be deemed to include among other things, any income of the taxpayer recognized by the income tax laws of 1901 and 1932 as a result of the exchange;
- (2) If the basis is dependent upon acquisition from a decedent, the property shall be deemed to have been acquired from a decedent if deemed so acquired for the purposes of chapter 236 prior to July 1, 1983 or after June 30, 1983 under this chapter but not otherwise, and the residence or nonresidence of the decedent, the location of the property, and chapter 236 [as it read at the time of the acquisition] for property acquired prior to July 1, 1983 or this chapter where the property has been acquired after June 30, 1983 shall be considered;¹
- (3) If the basis is dependent upon deductions, exclusions, or exemptions taken or allowable, under the Internal Revenue Code or a prior applicable federal income tax law, in a prior year, it shall depend upon deductions, exclusions, or exemptions taken or allowable under the income tax law of the State governing such prior years;
- (4) If the basis is dependent upon the election provided for by section 307, Internal Revenue Code, it shall be governed by the election actually made under the Internal Revenue Code for the taxable year, whether or not the taxable year was governed by the income tax law of 1957."

SECTION 8. Section 560:6-108, Hawaii Revised Statutes, is amended to read:

"§560:6-108 Financial institution protection; payment on signature of one party. Financial institutions may enter into multiple-party accounts to the same extent that they may enter into single-party accounts. Subject to the provision of sections [236-24] -12 and 560:6-107, any multiple-party account may be paid, on request and according to its terms, to any one or more of the parties. A financial institution shall not be required to inquire as to the source of funds received for deposit to a multiple-party account, or to inquire as to the proposed application of any sum withdrawn from an account."

SECTION 9. Section 560:6-109, Hawaii Revised Statutes, is amended to read:

"§560:6-109 Financial institution protection; payment after death or disability; joint account. Subject to the provisions of sections [236-24] -12 and 560:6-107 any sums in a joint account may be paid, on request and according to its terms, to any party without regard to whether any other party is incapacitated or deceased at the time the payment is demanded; but payment may not be made to the personal representative or heirs of a deceased party unless proofs of death are presented to the financial institution showing that the decedent was the last surviving party or unless there is no right of survivorship under section 560:6-104."

SECTION 10. Chapter 236, Hawaii Revised Statutes, is repealed.

SECTION 11. The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1983, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made to the Hawaii Revised Statutes, by any other Act enacted by this regular session of 1983.

SECTION 12. Statutory material to be repealed is bracketed. New material, other than in Section 1, is underscored.

SECTION 13. This Act, upon its approval, shall apply only to property or interests subject to the estate and transfer tax under the new chapter enacted in section 1 of this Act that passes from any person who dies after June 30, 1983.

(Approved June 8, 1983.)

Note

1. Incorrect underscoring.

A Bill for an Act Relating to Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431-694, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Subject to the exception specified in subsection (f) [of this section], each filing shall be on file for a waiting period of [fifteen] thirty days before it

becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if [he] the commissioner gives written notice within the waiting period to the insurer or rating organization which made the filing that [he] the commissioner needs [such] the additional time for the consideration of [such] the filing. [Upon written application by the insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof.] A filing shall be deemed to meet the requirements of the casualty rating law unless disapproved by the commissioner within the waiting period or any extension thereof.

With respect to workers' compensation filings, the insurer or rating organization submitting the filing shall also publish a notice of an approved filing in a newspaper of general circulation in the State in a form approved by the commissioner, at least thirty days prior to the effective date of the approved filings."

SECTION 2. Section 431-714, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) Subject to the exception specified in subsection (g) [of this section], each filing shall be on file for a waiting period of [fifteen] thirty days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if [he] the commissioner gives written notice within [such] the waiting period to the insurer or rating organization which made the filing that [he] the commissioner needs [such] the additional time for the consideration of the filing. [Upon written application by the insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof.] A filing shall be deemed to meet the requirements of the fire rating law unless disapproved by the commissioner within the waiting period or any extension thereof."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

A Bill for an Act Relating to Public Utilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to clearly and specifically authorize the Public Utilities Commission to promulgate rules. Passage of this Act is not to imply in any way that the Commission was not authorized to promulgate rules prior to the enactment of this Act.

SECTION 2. Section 269-14, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 269-6, Hawaii Revised Statutes, is amended to read:

"§269-6 General powers and duties. The public utilities commission shall have the general supervision hereinafter set forth over all public utilities, and shall perform the duties and exercise the powers imposed or conferred upon it by this chapter. Included among the general powers of the commission is the authority to adopt rules pursuant to chapter 91 necessary for the purposes of this chapter.

The chairman of the commission may appoint [one of its members as] a hearings officer¹, who shall not be subject to chapter 76 and 77, to hear and [decide] recommend decisions in any proceeding before it other than a proceeding involving the rates or any other matters covered in the tariffs filed by the public utilities. The hearings officer shall have the power to take testimony, make findings of fact and conclusions of law, and recommend a decision; provided that the findings of fact, the conclusions of law, and the recommended decision shall be reviewed and may be approved by the commission after notice to the parties and an opportunity to be heard. The hearings officer shall have all of the powers conferred upon the public utilities commission under section 269-10."

SECTION 4. Section 269-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The chairman of the public utilities commission may appoint and employ such clerks, stenographers, agents, engineers, accountants, and other assistants for the public utilities commission as he finds necessary for the performance of the commission's functions and define their powers and duties. The chairman may appoint and at pleasure dismiss a chief administrator [and, notwithstanding] and such hearings officers as may be necessary. Notwithstanding section 103-3, [an attorney] the chairman shall appoint one or more attorneys independent of the attorney general who shall act as [attorney] attorneys for the commission and define their powers and duties and fix their compensation. The chief administrator [and attorney], hearings officers, and attorneys shall be exempt from chapters 76 and 77. Other employees, except the public utilities commission assistants, shall be appointed as may be needed by the chairman in accordance with chapters 76 and 77."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 6. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

Notes

1. The words "a hearings officer" should not have been underscored.
2. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Dentistry.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 448-1, Hawaii Revised Statutes, is amended to read as follows:

"§448-1 Dentistry defined; exempted practices. A person practices dentistry, within the meaning of this chapter, who represents [himself] oneself as being able to diagnose, treat, [remove stains and concretions from teeth,] operate or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, alveolar process, gums, or jaw, [and] or who offers or undertakes by any means or methods to diagnose, treat, [remove stains or concretions from teeth,] operate or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the same, or to take impressions of the teeth or jaws; or who owns, maintains, or operates an office for the practice of dentistry; or who engages in any of the practices included in the curricula of recognized and approved dental schools or colleges. Dentistry includes that part of health care concerned with the diagnosis, prevention, and treatment of diseases of the teeth, oral cavity, and associated structures including the restoration of defective or missing teeth. The fact that a person uses any dental degree, or designation, or any card, device, directory, poster, sign, or other media whereby [he] one represents [himself] oneself to be a dentist, shall be prima facie evidence that the person is engaged in the practice of dentistry.

The following practices, acts, and operations, however, are exempt from the operation of this chapter:

- (1) The rendering of dental relief in emergency cases in the practice of [his] one's profession by a physician or surgeon, licensed as such and registered under the laws of this State, unless [he] one undertakes to reproduce or reproduces lost parts of the human teeth in the mouth or to restore or replace in the human mouth lost or missing teeth;
- (2) The practice of dentistry in the discharge of their official duties by dentists in the United States Army, the United States Navy, the United States Air Force, the United States Public Health Service, or the United States Veterans Administration;
- (3) The practice of dentistry by licensed dentists of other states or countries at meetings of the [dental society of] Hawaii Dental Association or component parts thereof, alumni meetings of dental colleges, or any other like dental organizations, while appearing as clinicians;
- (4) The use of roentgen and other rays for making radiograms or similar records of dental or oral tissues; and
- (5) The making of artificial restorations, substitutes, appliances, or materials for the correction of disease, loss, deformity, malposition, dislocation, fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or associated tissues, or parts, upon orders, prescription, casts, models, or from impressions furnished by a Hawaii licensed [and registered] dentist."

SECTION 2. Section 448-4, Hawaii Revised Statutes, is amended to read as follows:

"§448-4 Fraudulent advertising[; penalty]. It shall be unlawful for any person to publish[, or circulate, directly or indirectly, [or circulate,] any [fraudulent, false, or misleading] statements [as to the skill or method of practice of any person or operator; or in any way to advertise to practice dentistry without causing

pain; or to advertise in any manner with a view of deceiving the public, or in any way that will tend to deceive or defraud the public; or to claim superiority over neighboring dental practitioners; or to publish reports of cases or certificates of same in any public advertising media; or to advertise as using any anesthetic, drug, formula, material, medicine, method, or system which is either falsely advertised or misnamed; or to advertise free dental services or examinations as an inducement to secure dental patronage; or to advertise any amount as a price or fee for the service or services of any person engaged as principal or agent in the practice of dentistry, or for any material or materials whatsoever used or to be used; or to employ "cappers" or "steerers" to obtain patronage or to exhibit or use specimens of dental work, posters, or any other media calling attention of the public to any person engaged in the practice of dentistry; or to give a public demonstration of skill or methods or practicing dentistry upon or along the streets or highways, or any place other than his office where he is known to be regularly engaged in the practice of his profession. Any person committing an offense against this section shall, upon conviction, be subjected to such penalties as are provided in this chapter; provided, that any person licensed under this chapter may announce, by way of a professional card, only his name, title, degree, office location, office hours, phone number, and residence address and phone number, and if he limits his practice to a specialty he may announce it, but such card shall not be greater in size than three and one-half inches by two inches, and such information may be inserted in public print when not more than two columns in width and two inches in depth; or announce his change of place of business, absence from, or return to business in the same manner; or issue appointment cards to his patients, when the information thereon is limited to matter pertaining to the time and place of appointment and that permitted on the professional card; or display the name of the licensee, on the premises where engaged in the profession, upon the windows thereof and by a door plate, or name, or office directory when the information is limited to that of the professional card; provided further, that such signs shall contain no letters higher than five inches or wider than three inches.] relating to the person's practice of dentistry that are or tend to be false, fraudulent, or misleading."

SECTION 3. Section 448-6, Hawaii Revised Statutes, is amended to read as follows:

"§448-6 Officers; meetings. (a) The board of dental examiners shall elect one of its members president[, another secretary,] and another [treasurer thereof.] as vice president."

(b) The board shall meet for the purpose of examining applicants and for other purposes at such times as it designates. Adequate notice of the times and places of examinations shall be given by publication in a newspaper of general circulation in the State. The board may prescribe which members shall participate in the examination and licensing procedures.

(c) The board shall adopt such rules as it deems proper and necessary for the performance of its work."

SECTION 4. Section 448-9, Hawaii Revised Statutes, is amended to read as follows:

“§448-9 Application for examination[; fee.] for graduates of dental colleges accredited by the American Dental Association. Any person of eighteen years or more, shall be eligible to take an examination before the board of dental examiners upon complying with the following requirements:

- (1) Submit an application in writing to the executive secretary of the board no later than sixty days prior to the date of the scheduled examination.
- (2) Remit an examination fee set by the board with each application, the fee to be deposited by the director of [regulatory agencies] commerce and consumer affairs with the director of finance to the credit of the general fund.
- (3) Submit with each application documentation and credentials which include but are not limited to the following:
 - (A) A recent unmounted photograph of the applicant; [and
 - (B) A certificate that the applicant is of good moral character; and
 - (C)] (B) A diploma or certificate of graduation from a dental college accredited by the Council of Dental Education of the American Dental Association, recognized and approved by the board; and
 - [(D)] (C)¹ A certificate or other evidence satisfactory to the board of having passed [the theory] Parts I and II of the examination of the National Board of Dental Examiners.”

SECTION 5. Section 448-9.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§448-9.5]] Application for examination; graduates of foreign dental schools[.] not accredited by the American Dental Association. (a) Any person of eighteen years or more, who is a graduate of a foreign dental school not accredited by the American Dental Association and a permanent resident of the United States shall be eligible to take an examination before the board of dental examiners upon complying with the following requirements:

- (1) Submit an application in writing to the executive secretary of the board no later than sixty days prior to the date of scheduled examination.
- (2) Remit an examination fee set by the board with each application, said fee to be deposited by the director of [regulatory agencies] commerce and consumer affairs with the director of finance to the credit of the general fund.
- (3) Submit with each application documentation and credentials which include but are not limited to the following:
 - (A) A recent unmounted photograph of the applicant[.];
 - [(B)] A certificate that the applicant is of good moral character.
 - (C)] (B) A complete transcript of the academic and clinical dental school record of the applicant, authenticated by either the president, secretary, dean, or registrar of the educational institution. The transcript shall be accompanied by an affidavit showing to the satisfaction of the board that the applicant is the person named in each transcript submitted, that the transcript is a true recital of the full number of academic years of undergraduate courses

required for graduation, that such courses of professional instruction in dentistry were accomplished in a resident course of instruction[.];

- [(D)] (C) A legible, true copy of the dental diploma or dental degree conferred upon the applicant as evidence of the completion of the courses of dental instruction required for graduation, authenticated by either the president, secretary, dean, or registrar of the educational institution. The diploma or degree shall be accompanied by an affidavit showing to the satisfaction of the board that the applicant is the person named in the document, that the applicant is the lawful holder, and that it was procured in the regular resident course of instruction and examination without fraud or misrepresentation[.];
- [(E)] (D) Certification by the licensing authority of the governmental jurisdiction, wherein is located the foreign institution from which the applicant was graduated that the applicant has been admitted or licensed to practice dentistry in such foreign state, country, or political subdivision[.];
- [(F)] (E) [Other documentation and credentials as may be required by the board.] A certificate or other evidence satisfactory to the board of having passed Parts I and II of the examination of the National Board of Dental Examiners; and
- (F) Other documentation and credentials as may be required by the board.

(b) Credentials and documentation required by this section which are submitted in a foreign language shall be accompanied by a certified original translation by a qualified translator.

(c) When, because of circumstances beyond the applicant's control, an applicant is unable to furnish any of the documents, authentication, or certification required by this section, the board may in its discretion accept other documents which it deems satisfactory to establish the applicant's eligibility.

[(d) After the applicant's credentials have been accepted by the board, the applicant shall take and pass Parts I and II of the examination of the National Board of Dental Examiners prior to taking the restorative technique examination, provided for under section 448-10(b). The applicant shall not be permitted to take the practical examination provided for under section 448-10(a) until satisfactorily passing Parts I and II of the examination of the National Board of Dental Examiners and the restorative technique examination.]”

SECTION 6. Section 448-10, Hawaii Revised Statutes, is amended to read as follows:

“§448-10 Examination; time. (a) The [state] board of dental examiners shall require all applicants to take the state written and practical examination on dentistry. In administering the examination the [state] State shall consider current trends in dental education. The requirements for the examination in operative and laboratory dentistry shall be decided by the board and mailed to each applicant. All instruments, materials, and patients shall be supplied by the applicant. [An engine

and chair shall be furnished by the board.] Two examinations shall be held each year.

(b) The board of dental examiners shall establish and administer a restorative technique examination to all qualified applicants under section 448-9.5. The examination shall consist of preparation and restorative procedures in gold foil[,] and amalgam [and crown and bridge] on a special typodont model. No applicant shall be permitted to take the practical examination under subsection (a) unless [they have] the applicant has passed the restorative technique examination."

SECTION 7. Section 448-8, Hawaii Revised Statutes, is repealed.

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 9. This Act shall take effect upon its approval.
(Approved June 8, 1983.)

Notes

1. Underscoring missing.
2. Edited pursuant to HRS §23G-16.5.

ACT 221

H.B. NO. 389

A Bill for an Act Relating to Receipts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 408-17, Hawaii Revised Statutes, is amended to read as follows:

"§408-17 Making and payment of loans; written receipts and statements; chart of rates, etc. Every licensee shall:

- (1) Deliver to the borrower at the time any contract other than a contract for an open-end loan is made a statement showing clearly and distinctly the terms, the amount, and date of the loan and of its maturity, the nature of the security, if any, the name and address of the borrower and of the licensee, the agreed rates of all charges and the actual effective rate of interest a year on the contract; this statement shall contain such additional information as the bank examiner may require;
- (2) Give to the borrower a plain and complete receipt for all payments of installments made on any loan at the time the payments are made or at the time of sending the borrower the periodic statement (as described in paragraph (5) [of this section]) for the billing cycle in which such payment was made, together with such additional information as the bank examiner may require; provided that any payment made by check or draft as defined in section 490:3-104, shall not require a receipt unless requested by the borrower;
- (3) Upon repayment in full of a loan other than an open-end loan, mark forthwith indelibly every application and security signed or executed by the borrower with respect to such loan (where the security does not also secure any other then existing obligation to the lender) with the

word "paid" or "canceled", and release any mortgage, restore any pledge, cancel and return any note, and cancel and return any assignment given to the licensee by the borrower with respect to the loan (where the security does not also secure any other then existing obligation to the lender);

- (4) Deliver to the borrower at the time any open-end loan account is opened a copy of the open-end agreement and, to the extent the following items are not covered by the loan agreement, a statement showing clearly and distinctly the terms under which the open-end loans are to be made, the nature of the security, if any, the name and address of the borrower and of the licensee, the agreed rates of charges and the actual effective rate of interest under section 408-15, together with such additional information as the bank examiner may require; and
- (5) Except in the case of an open-end loan account which the licensee deems to be uncollectible or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver to the borrower, or any one thereof, at the end of each billing cycle in which there is an outstanding balance of more than \$1 in the open-end loan account or with respect to which a finance charge is imposed, a periodic statement of the dates and amounts of interest and other charges, advances and other debits, and payments and other credits during the billing cycle, the balance of the account at the beginning of the billing cycle and as of the closing date of the billing cycle, and the minimum payment, if any, required on the account for the next billing cycle; together with such additional information as the bank examiner may require.

Every licensee shall during all business hours have prominently displayed in its office, located in such place and manner that all borrowers may be able clearly to read the same, a rate chart which shall set forth in such form as the bank examiner shall prescribe, the effective rate of interest a year charged by the licensee for the borrowing of money.

Every promissory note taken or accepted by a licensee as evidence of a loan made to a borrower shall, before its acceptance by the licensee, have clearly set forth a statement of the effective rate of interest a year charged by the licensee for the loan evidenced by the note.

The provisions of chapter 476 and section 408-15(1)(9) shall not apply to any loan made directly to a borrower, in compliance with this chapter."

SECTION 2. Section 409-17, Hawaii Revised Statutes, is amended to read as follows:

"§409-17 Making and payment of loans; statements, receipts; advance payments; advertisements. Every licensee shall:

- (1) Provide, in any loan contract, for repayment of principal and charges in installments, payable at the end of approximately equal intervals of time with not to exceed forty-five days between payment dates, and so arranged that no installment is substantially larger than any other

installment; if the installments are payable at a monthly interval, the first installment is permitted to be payable at any time within forty-five days of the date of the loan;

- (2) Deliver to the borrower at the time any loan is made a statement, upon which there shall be printed a copy of section 409-16, in the English language showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the licensee, and the agreed rate of charge;
- (3) Give to the borrower a plain and complete receipt for all payments made on account of any loan at the time the payments are made, specifying the amount applied to interest and the amount, if any, applied to principal, and stating the unpaid principal balance, if any, of the loan; provided that any payment made by check or draft as defined in section 490:3-104, shall not require a receipt unless requested by the borrower;
- (4) Permit payment to be made in advance in any amount on any contract of loan at any time, but the licensee may apply the payment first to all interest in full at the agreed rate up to the date of the payment;
- (5) Forthwith, upon repayment of the loan in full, mark indelibly every obligation and security signed or executed by the borrower with the word "paid" or "canceled", and release any mortgage, restore any pledge, cancel and return any note, and cancel and return any assignment given to the licensee by the borrower;
- (6) Display prominently in each licensed place of business a full and accurate schedule, to be approved by the bank examiners¹ of the charges to be made and the method of computing the same."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

Note

1. So in original.

ACT 222

H.B. NO. 390

A Bill for an Act Relating to Quieting Title.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 669-1, Hawaii Revised Statutes, is amended to read as follows:

"§669-1 Object of action. (a) Action may be brought by any person against another person who claims, or who may claim adversely to the plaintiff, an estate or interest in real property, for the purpose of determining the adverse claim.

(b) Action for the purpose of establishing title to a parcel of real property of five acres or less may be brought by any person who has been in adverse possession of the real property for not less than twenty years. Action for the purpose of establishing title to a parcel of real property of greater than five acres may be brought by any person who had been in adverse possession of the real property for not less than twenty years prior to November 7, 1978, or for not less than earlier applicable time periods of adverse possession. For purposes of this section, any person claiming title by adverse possession shall show that such person acted in good faith. Good faith means that, under all the facts and circumstances, a reasonable person would believe that he or she has an interest in title to the lands in question and such belief is based on inheritance, a written instrument of conveyance, or the judgment of a court of competent jurisdiction.

[(c) Action under subsection (a) or (b) shall be brought in the circuit court of the circuit in which the property is situated.

(d)] (c) Action brought to claim property of five acres or less on the basis of adverse possession may be asserted in good faith by any person not more than once in twenty years, after November 7, 1978.

(d) Action under subsection (a) or (b) shall be brought in the circuit court of the circuit in which the property is situated."

SECTION 2. Section 669-3, Hawaii Revised Statutes, is amended to read as follows:

"§669-3 Notice by publication or registered mail. In any action brought under section 669-1(a) or (b), unknown persons and any known persons who do not reside within the State or cannot after due diligence be served with process within the State may be served as provided by sections 634-23, 634-24, and 634-26[.]; provided that section 634-23(3) notwithstanding, service by publication in any action brought under section 669-1(a) or (b) shall be made in an English language newspaper published in and having a general circulation in the circuit in which the action or proceeding has been instituted, and if the action or proceeding has been instituted in any circuit other than the first circuit, service by publication shall also be made in an English language newspaper having a general circulation in the State. Publication shall be made in such manner and for such time as the court may order, but not less than once in each of four successive weeks, the last publication to be not less than twenty-one days prior to the return date stated herein unless a different time is prescribed by order of the court. A copy of the summons also shall be posted upon the real property concerned in the action or proceeding."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 671-1, Hawaii Revised Statutes, is amended by amending the definition of "health care provider" to read as follows:

- "(1) "Health care provider" means a physician or surgeon licensed under chapter 453, a physician or a physician and surgeon licensed under chapter 460, a health care facility as defined in section [323D-41(7),[]] and employees of any of them. Health care provider shall not mean any nursing institution or nursing service conducted by and for those who rely upon treatment by spiritual means through prayer alone, or employees of such institution or service."

SECTION 2. Section 671-3, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) In any action for medical tort based on an incident that occurred after January 1, 1977, based on the rendering of professional service without informed consent, evidence may be introduced that the health care provider complied with standards established by the board of medical examiners or board of osteopathic examiners, as applicable, governing the information required to be given by or at the direction of the health care provider to a patient, or the patient's guardian in the case of a patient who is not competent to give informed consent.

(b) The board of medical examiners shall, insofar as practicable, establish reasonable standards of medical practice[,] of physicians and surgeons licensed under chapter 453, applicable to specific treatment and surgical procedures, for the substantive content of the information required to be given and the manner in which it is given and in which consent is received in order to constitute informed consent from a patient or a patient's guardian. The board of osteopathic examiners, insofar as practicable, shall establish reasonable standards of osteopathic practice of physicians and physicians and surgeons licensed under chapter 460, applicable to specific treatment and surgical procedures, for the substantive content of the information required to be given and the manner in which it is given and in which consent is received in order to constitute informed consent from a patient or a patient's guardian. The standards shall include, but not be limited to, provisions which are designed to reasonably inform and to be understandable by a patient or a patient's guardian of:

- (1) The condition being treated;
- (2) The nature and character of the proposed treatment or surgical procedure;
- (3) The anticipated results;
- (4) The recognized possible alternative forms of treatment; and
- (5) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment or surgical procedure, and in the recognized possible alternative forms of treatment, including nontreatment.

The standards established by [the] each board shall be prima facie evidence of the standards of care required of the health care provider for which it applies, but may be rebutted by either party."

SECTION 3. Section 671-5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) A failure on the part of any self-insured health care provider to report as requested by this section shall be grounds for disciplinary action by the board of medical examiners, board of osteopathic examiners, or the state health planning agency[.], as applicable. A violation by an insurer shall be grounds for suspension of its certificate of authority.”

SECTION 4. Section 671-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A medical claim conciliation panel shall be formed for each claim filed pursuant to section 671-12 and after each panel renders its decision or the claim is otherwise disposed of it shall be disbanded. Each medical claim conciliation panel shall consist of one chairperson selected from among persons who are familiar with and experienced in the personal injury claims settlement process, one attorney licensed to practice in the courts of the State and experienced in trial practice, and one physician or surgeon licensed to practice under chapter 453[.] or chapter 460. The chairperson shall be appointed by the chief justice of the supreme court of Hawaii. The attorney shall be appointed by the chairperson from a list of not less than thirty-five attorneys experienced in trial practice submitted annually by the supreme court. The physician or surgeon shall be appointed by the chairperson from a list of not less than thirty-five physicians or surgeons licensed under chapter 453 submitted annually by the board of medical examiners[.] or from a list of not less than eight physicians or physicians and surgeons licensed under chapter 460 submitted annually by the board of osteopathic examiners.

The chairperson shall preside at the meetings of the panel. The chairperson and all panel members shall be compensated at the rate of \$100 per claim handled which will become payable when the decision of the panel is submitted and shall be paid allowances for travel and living expenses which may be incurred as a result of the performance of their duties on the panel. Such costs shall be paid by the department of commerce and consumer affairs.

The office and meeting space, secretarial and clerical assistance, office equipment, and office supplies for the panel shall be furnished by the department.

The board of medical examiners and board of osteopathic examiners shall each prepare a list of physicians [and], surgeons, or physicians and surgeons, as the case may be, along with their respective specialties who shall then be considered consultants to the panel in their respective fields. Panel members may consult with other legal, medical, and insurance specialists. Any consultant called by the panel to appear before the panel shall be paid an allowance for travel and living expenses which may be incurred as a result of such person's appearance before the panel. Such costs shall be paid by the department.”

SECTION 5. Section 671-13, Hawaii Revised Statutes, is amended to read as follows:

“**§671-13 Medical claim conciliation panel hearing; fact-finding; evidence; voluntary settlement.** Every claim of a medical tort shall be heard by the medical claim conciliation panel within thirty days after the last date for filing a

response. No persons other than the panel, witnesses, and consultants called by the panel, and the persons listed in section 671-14 shall be present except with the permission of the chairperson. The panel may, in its discretion, conduct an inquiry of a party, witness, or consultant without the presence of any or all parties.

The hearing shall be informal. Chapters 91 and 92 shall not apply. The panel may require a stenographic record of all or part of its proceedings for the use of the panel, but such record shall not be made available to the parties. The panel may receive any oral or documentary evidence. Questioning of parties, witnesses, and consultants may be conducted by the panel, and the panel may, in its discretion, permit any party, or any counsel for a party to question other parties, witnesses, or consultants. The panel may designate who, among the parties, shall have the burden of going forward with the evidence with respect to such issues as it may consider, and unless otherwise designated by the panel, when medical and hospital records have been provided the claimant for the claimant's proper review, such burden shall initially rest with the claimant at the commencement of the hearing.

The panel shall have the power to require by subpoena the appearance and testimony of witnesses and the production of documentary evidence. When such subpoena power is utilized, notice shall be given to all parties. The testimony of witnesses may be taken either orally before the panel or by deposition. In cases of refusal to obey a subpoena issued by the panel, the panel may invoke the aid of any circuit court in the State, which may issue an order requiring compliance with the subpoena. Failure to obey such order may be punished by the court as a contempt thereof. Any member of the panel may sign subpoenas, administer oaths and affirmations, examine witnesses, and receive evidence. Notwithstanding such powers, the panel shall attempt to secure the voluntary appearance, testimony, and cooperation of parties, witnesses, and consultants without coercion.

At the hearing of the panel and in arriving at its opinion the panel shall consider, but not be limited to, statements or testimony of witnesses, hospital and medical records, nurses' notes, x-rays, and other records kept in the usual course of the practice of the health care provider without the necessity for other identification or authentication, statements of fact, or opinion on a subject contained in a published treatise, periodical, book, or pamphlet, or statements of experts without the necessity of the experts appearing at the hearing. The panel may upon the application of any party or upon its own decision appoint as a consultant, an impartial and qualified physician [or], surgeon, physician and surgeon, or other professional person or expert to testify before the panel or to conduct any necessary professional or expert examination of the claimant or relevant evidentiary matter and to report to or testify as a witness thereto. Such a consultant shall not be compensated or reimbursed except for travel and living expenses to be paid as provided in section 671-11. Discovery by the parties shall not be allowed.

During the hearing and at any time prior to the rendition of an advisory decision pursuant to section 671-15, the panel may encourage the parties to settle or otherwise dispose of the case voluntarily."

SECTION 6. Section 671-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Within thirty days after the completion of a hearing, the medical claim conciliation panel shall file a written advisory decision with the insurance commissioner who shall thereupon mail copies to all parties concerned, their counsel, and the representative of each health care provider’s liability insurance carrier authorized to act for such carrier, and the board of medical examiners[.] or board of osteopathic examiners, as appropriate. The panel shall decide the issue of liability and shall state its conclusions in substantially the following language: “We find the health care provider was actionably negligent in his or her care and treatment of the patient and we, therefore, find for the claimant”; or “We find the health care provider was not actionably negligent in his or her care and treatment of the patient and we, therefore, find for the health care provider”.”

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

ACT 224

H.B. NO. 812

A Bill for an Act Relating to Prosecution of Consumer Complaints by the Department of Commerce and Consumer Affairs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. The purpose of this bill is to ensure that the attorneys hired by the department of commerce and consumer affairs have such authority as is necessary to fully and effectively discharge their duties.

SECTION 2. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) The director may appoint a complaints and enforcement officer not subject to chapters 76 and 77 who shall facilitate the receipt, arbitration, investigation, prosecution, and hearing of complaints regarding any person who furnishes commodities or services for which a license is required from the department or any board or commission thereunder. In representing the State in bringing any action to enjoin unlicensed activities, the department of commerce and consumer affairs’ attorneys shall be empowered to exercise all authority granted to the attorney general and to the director of consumer protection under sections 487-12, 487-14, 480-3.1, 480-15, 480-15.1, 480-20(c), and 480-22, as such sections now exist and as they may be subsequently amended.”

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

A Bill for an Act Relating to Factory-Built Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 359L-7, Hawaii Revised Statutes, is amended to read as follows:

"**[§359L-7 Rules [and regulations].]** The department shall prescribe and enforce rules [and regulations] which protect the health, safety, and property of the people of this State by assuring that all factory built housing is structurally sound and that the plumbing, heating, electrical, and other components thereof are reasonably safe. Such rules [and regulations] shall be reasonably consistent with recognized and accepted principles of safety and structural soundness and in promulgating such rules [and regulations] the department shall consider, so far as practicable, the standards and specifications contained in: The uniform building code (1967), published by the international conference of building officials; the uniform plumbing code (1967), published by the international association of plumbing and mechanical officials; the uniform mechanical code (1967), published by the international conference of building officials and the international association of plumbing and mechanical officials; and the national electrical code (1968), published by the national fire protection association. Updated issues of these codes and amendments to such codes shall be considered by the department.

The department shall set a schedule of fees which will cover the costs incurred by the department in the administration and enforcement of this chapter."

SECTION 2. Section 359L-8, Hawaii Revised Statutes, is amended to read as follows:

"**§359L-8 Approval by other states.** If the director of the department determines that the standards for construction and inspection of factory built housing prescribed by statute, rule, or regulation of another state are at least equal to the [regulations] rules prescribed under this chapter, and that such standards are actually enforced by such other state, [he] the director may provide by [regulation] rule that factory built housing which has been inspected and approved by such other state shall be deemed to have been approved by the department.

If the director does not so determine, [he] the director may approve such factory built housing if the manufacturer: (1) certifies in writing that the standards for construction and inspection of factory built housing prescribed by statute, rule, or regulation of another state are at least equal to the [regulations] rules prescribed under this chapter, and that such standards are actually enforced by such other state, and (2) files with the director of the department a bond to be approved by [him] the director in which the manufacturer shall be the obligor, in the sum of \$50,000 with one or more sureties whose liability as sureties need not exceed the sum in aggregate. The bond shall run to the State for the use of the State and of any person or persons who may have cause of action against the obligor of the bond under this chapter. The bond shall be conditioned that the obligor will faithfully conform to and abide by such standards for construction and inspection of such other state, and will pay to the State and to any person or persons all moneys that may become due

or owing to the State or to any person or persons from the obligor under and by virtue of [his] the obligor's failure to faithfully conform to and abide by such standards for construction and inspection of such other state."

SECTION 3. Section 359L-9, Hawaii Revised Statutes, is amended to read as follows:

"**[§359L-9 Misdemeanor.]** Any person who violated any of the provisions of this chapter or any [rules or regulations] rule adopted pursuant to this chapter is guilty of a misdemeanor, punishable by a fine not exceeding \$500 or by imprisonment not exceeding thirty days, or by both such fine and imprisonment."

SECTION 4. Section 359L-6, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 226

H.B. NO. 913

A Bill for an Act Relating to Industrial Loan Companies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 408-20, Hawaii Revised Statutes, is amended to read as follows:

"§408-20 Other restrictions on business. No industrial loan company shall engage in the banking or trust company or building and loan association business. A licensee shall not charge, contract for, collect, or receive interest, discounts, fees, fines, commissions, charges, or other considerations in excess of the interest or discount, charges, recording and satisfaction fees, or premiums for insurance authorized by this chapter and shall not split or divide any contract so as to obtain charges in excess of those authorized by this chapter. A licensee shall not sell any loan to another person or company doing business in this State whenever such loan provides by contract for a rate of interest greater than would be permissible under section 478-3 unless such person or company has the right to charge, contract for, receive, collect in advance or recover interest, discount, and other charges at the same rates and in the same amounts as permitted by law in the case of loans made by industrial loan companies licensed under this chapter and such loans are sold without recourse. This section shall not be construed to prohibit any licensee from selling any loan, secured by an interest in real property, to any person or company licensed, authorized or permitted by any other state or the federal government to make, purchase, or service such loans, nor to prohibit such person or company from collecting interest and enforcing the terms of the loan to the same extent permitted the licensee but for the sale of the loan."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

ACT 227

H.B. NO. 992

A Bill for an Act Relating to Dog Control.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Purpose.** Under present law, the counties have the responsibility to apprehend stray dogs and to maintain shelters for their impounding. It is the State, however, that has the authority to determine the appropriate penalties and fees. This Act will transfer the authority to determine the penalties for unlicensed dogs and stray licensed dogs, as well as the impoundment fee for such dogs, from the State to the counties. This Act also updates the definition of "officer", and holds a parent or guardian responsible for compliance with the laws pertaining to the licensing and regulation of dogs when the owner of a dog is a minor. This Act further will make it a misdemeanor for failing to destroy or provide suitable medical treatment and care for a diseased dog which is consistent with the penalty for cruelty to animals.

SECTION 2. Section 143-1, Hawaii Revised Statutes, is amended by amending the definition of "owner" and "officer" to read as follows:

"Owner" includes every person owning, harboring, or keeping a dog; provided that if the owner is a minor under the age of eighteen years, the parent, guardian, or other person having the care, custody, or control of the minor shall be irrebuttably presumed to be the owner;

"Officer" means any sheriff, deputy, any member of a police force in counties with a population of less than 100,000 and [dog wardens] animal control officers of the several counties of the State;"

SECTION 3. Section 143-4, Hawaii Revised Statutes, is amended to read as follows:

"§143-4 **Issuance of license and tags.** Upon the receipt of the license fee the director of finance shall issue to the person paying the fee a license stating the following:

- (1) The name and address of the person to whom the license is issued;
- (2) The year for which the license is paid;
- (3) The date of payment;
- (4) A description of the dog for which the license is issued;
- (5) The number of the metal tag issued for the dog.

The director of finance shall at the same time issue and deliver to the person a metal tag of such form and design as he may designate with a serial number and the year for which it is issued plainly inscribed thereon, [charging therefor the sum of 10 cents,] which tag shall be attached to a collar around the neck of the dog for which the license has been issued. The fee for the tag shall be set by each county

council; provided that until and unless provided by ordinance the fee shall be 10 cents."

SECTION 4. Section 143-7, Hawaii Revised Statutes, is amended to read as follows:

"§143-7 Pounds and [dog wardens.] animal control officers. The council of each county may establish and maintain pounds for the impounding of dogs under this chapter, and may provide for the appointment and compensation of [dog wardens] animal control officers who shall have all the powers of a sheriff or police officer in carrying out this chapter."

SECTION 5. Section 143-8, Hawaii Revised Statutes, is amended to read as follows:

"§143-8 Seizure and redemption of unlicensed dogs. Except where licensing requirements are dispensed with, every officer shall seize any unlicensed dog found running at large or found upon any public highway, street, alley, court, place, square, or grounds, or upon any unfenced lot, or not within a sufficient enclosure, whether in the immediate presence of the owner or otherwise, and confine it in a pound or any suitable enclosure for a period of forty-eight hours, during which time it shall be subject to redemption by its owner by payment of the license due, if any, and a penalty [of 50 cents.] to be set by each county council; provided that until and unless provided by ordinance the penalty shall be \$2.50. If not so redeemed, the dog shall be sold by the officer for the amount of the license and penalty due, or as much more as can be obtained therefor[.]; provided that the officer may neuter or require the neutering of the dog prior to sale, and if not so sold it shall be humanely destroyed. The owner of any unlicensed dog impounded and not claimed within forty-eight hours as provided in this section, may redeem the dog at any time before sale or destruction of [same] the dog by paying to the officer, in addition to the amount of the license and penalty, [the sum of 25 cents] an impoundment fee per day for the number of days over two days the dog was impounded. Each county council shall have the power to fix the impoundment fee for dogs; provided that until and unless otherwise provided by ordinance the impoundment fee shall be \$2.50 a day. Of the money so received the amount of the license fee shall be paid to the director of finance and the balance shall be retained by the officer to defray the expenses of collecting, keeping, and feeding the dog."

SECTION 6. Section 143-9, Hawaii Revised Statutes, is amended to read as follows:

"§143-9 Redemption of dog after sale. The owner of any dog which has been seized and sold as provided in this chapter [may], at any time within thirty days after the sale, may redeem the [same] dog from the purchaser by paying to him the amount of the purchase price paid by the purchaser and [the sum of 25 cents] an impoundment fee per day as provided in section 143-8, for the number of days from the date of sale to and including the date of the redemption. If the dog has been neutered in the manner provided in section 143-8, the owner shall pay to the purchaser the amount of the neutering charge."

SECTION 7. Section 143-10, Hawaii Revised Statutes, is amended to read as follows:

"§143-10 Stray dogs. Every person who takes into his possession any stray dog shall immediately notify the [dog warden] animal control officer and release the dog to the [dog warden] animal control officer upon demand. If there is attached to the dog a license tag for the then current year, the [dog warden] animal control officer shall notify in writing the person to whom the license was issued, at the address given in the license certificate, and [shall], upon demand made within twenty-four hours thereafter[,] and without charge, shall release the dog to the person. If no person lawfully entitled to the dog [shall], within nine days after the date of giving the notice, shall claim the dog, the dog may be sold or destroyed by the [dog warden] animal control officer in the manner provided in section 143-8 for unlicensed dogs."

SECTION 8. Section 143-11, Hawaii Revised Statutes, is amended to read as follows:

"§143-11 Redemption of stray licensed dogs. The owner of any licensed dog impounded and not claimed within twenty-four hours as provided in section 143-10, may redeem the dog at any time before the sale or destruction of the dog by paying to the [dog warden the sum of 25 cents] animal control officer an impoundment fee per day as provided in section 143-8, for the number of days the dog was impounded."

SECTION 9. Section 143-12, Hawaii Revised Statutes, is amended to read as follows:

"§143-12 Seizure and disposal of diseased dogs; penalty. Any police officer or¹ animal control officer may seize and [(], after notice to the owner[, if he can be found)], may kill any dog running at large which is so obviously diseased as to be a menace to the health of persons or animals.

Any owner of any dog so diseased, who recovers the dog from the police officer[, or animal control officer, after notice as aforesaid, and does not [forthwith] furnish forthwith suitable medical treatment and care for, or destroy, the diseased dog, shall be [fined \$5.] guilty of a misdemeanor."

SECTION 10. Section 143-13, Hawaii Revised Statutes, is amended to read as follows:

"§143-13 Destruction of diseased or unfit dogs. All dogs taken into the custody of the [dog warden] animal control officer which by reason of age, [or] disease, or other [cause,] causes, are unfit for further use or are dangerous to keep impounded, may be forthwith humanely destroyed by the [dog warden.] animal control officer."

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 12. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

Note

1. Underscoring missing.

ACT 228

H.B. NO. 1061

A Bill for an Act Relating to Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 237-29, Hawaii Revised Statutes, is amended to read as follows:

“§237-29 Exemptions for certified low and moderate income housing.

[(a) For the purposes of this section “nonprofit corporation or association” means a mortgagor who qualifies for an insured mortgage loan under section 221 (d) (3), section 236, or section 202 of the National Housing Act as a nonprofit corporation or association.

(b)] (a) All [of the] gross [proceeds] income received by [contractors] any person for the planning, design, financing, construction, sale, lease, or rental management in the State of [multiunit residential buildings developed, owned, and operated by nonprofit corporations or associations regulated by federal or state laws or by a political subdivision of the State or agencies thereof,] a housing project which has been certified under section 359G-15 shall be exempt from general excise taxes.

[(c)] (b) All [of the] gross [proceeds] income received from or on behalf of a tenant or lessee as rent for a [residential] dwelling unit in a nonprofit corporation or a limited distribution corporation housing project certified under section 359G-15 shall be exempt from general excise taxes.

(c) All claims for exemption under this section shall be certified by the Hawaii housing authority and forwarded to the director of taxation.

(d) The director of taxation and the director of the Hawaii housing authority shall[,] adopt rules pursuant to chapter 91 [, promulgate rules and regulations] necessary [to administer] for the purposes of this section.”

SECTION 2. Chapter 359G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§359G- Exemption from tax on income and obligations. Income earned and obligations issued by a nonprofit entity determined to constitute a “public housing agency” pursuant to section 3(6) of the United States Housing Act of 1937, as amended, and which income and obligations are declared by the United States Department of Housing and Urban Development to be exempt from all taxation imposed by the United States pursuant to section 11(b) of such Act shall be exempt from all taxation now or hereafter imposed by the State.”

SECTION 3. Section 359G-15, Hawaii Revised Statutes, is amended to read as follows:

“§359G-15 Exemption from general excise [tax.] taxes. [Notwithstanding any other law to the contrary, all rents and proceeds received from housing or housing projects, including all gross proceeds received by contractors for the

construction of such housing or housing projects, developed pursuant to section 359G-6 and section 359G-11 shall be exempt from general excise or receipts taxes.] (a) The authority may certify a housing project receiving government assistance for exemption from general excise taxes. At the request of the authority, the department of taxation shall exempt such [items] gross income from general excise [or receipts] taxes [for projects developed pursuant to section 359G-10.5 and section 359G-11.1].

(b) A claim for such exemption shall be filed with the director of taxation pursuant to rules adopted by the director of taxation. Such exemption as filed and approved, shall not be considered a subsidy for the purpose of this chapter.

(c) For the purpose of this section, "government assistance" means assistance under a low or moderate income housing program from the State or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 1983.

(Approved June 8, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 229

H.B. NO. 1090

A Bill for an Act Relating to Pool Buying Transactions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 281-46, Hawaii Revised Statutes, is amended to read as follows:

"**[§281-46] Pool buying.** (a) No holder of a wholesale dealer's or manufacturer's license shall refuse to sell liquor to two or more licensees pursuant to any pool buying agreement between the licensees which has been filed with the commission having jurisdiction over the licensees; provided that:

- (1) The pool buying agreement is in writing and designates one of the licensees as the agent of the others for the purpose of pool buying;
- (2) Any order for pool buying from the holder of a manufacturer's or wholesale dealer's license shall be placed by the agent and payment for that order shall be made by the agent;
- (3) The holder of a manufacturer's or wholesale dealer's license in selling to the agent shall follow invoice, record keeping, and delivery procedures which are in compliance with this chapter and the rules of the commission of each county having jurisdiction over the seller; and
- (4) Each pool buying transaction shall be completed on the day transacted[.], and where the pool buying agreement is between or among licensees from different counties, the transaction shall be deemed

completed when the product has been delivered to a freight forwarder, water carrier or private trucking firm for delivery to the licensees.

(b) As used in this section, "pool buying" means two or more licensees sharing the cost of a single purchase of liquor.

(c) Nothing in this section shall be deemed to exempt any licensee entering into any pool buying agreement from any antitrust laws."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

ACT 230

H.B. NO. 1115

A Bill for an Act Relating to Service Corporations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 407-95, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Limitations. A savings and loan association may make any investment under this section if its aggregate outstanding investment in the capital stock, obligations, or other securities of service [corporation] corporations would not thereupon exceed [one percent] six per cent of the association's assets. For the purposes of this section, the term "aggregate outstanding investment" means the sum of amounts paid for the acquisition of capital stock or securities and amounts invested in obligations of service corporations less amounts received from the sale of capital stock or securities of service corporations and amounts paid to the savings and loan association to retire obligations of service corporations."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

ACT 231

H.B. NO. 1153

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 663-1.7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) As used in this section, "professional society" or "society" means any association or other organization of persons engaged in the same profession or occupation, or specialty within a profession or occupation, a primary purpose of which is to maintain the professional standards of the persons engaged in its

profession or occupation[;] or specialty practice; and "peer review committee" or "committee" means a committee created by a professional society, or by the medical or administrative staff of a licensed hospital, whose function is to maintain the professional standards established by the bylaws of the society or the hospital of the persons engaged in its profession or occupation, or area of specialty practice, or in its hospital."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

ACT 232

H.B. NO. 1304

A Bill for an Act Relating to Industrial Loan Company Guaranty Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 408A-30, Hawaii Revised Statutes, is amended to read as follows:

"§408A-30 Applicant; initiation fee. Each applicant of the guaranty corporation shall pay to the corporation a fee of \$15,000 [which may be applied as a credit to any assessment levied by the guaranty corporation]. Upon payment of the \$15,000, the applicant shall thereafter be considered a member of the guaranty corporation."

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1983.)

ACT 233

H.B. NO. 1580

A Bill for an Act Relating to Industrial Loan Companies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 408A-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) [Upon the establishment of the guaranty corporation, no] No industrial loan company licensed under and regulated by chapter 408, shall issue thrift account obligations, unless it is a member of the guaranty corporation. All such thrift account obligations shall be insured either by the guaranty corporation or by the Federal Deposit Insurance Corporation; provided that after June 30, 1984, no industrial loan company shall issue thrift account obligations, unless such obligations are insured by the Federal Deposit Insurance Corporation."

SECTION 2. Section 408A-9, Hawaii Revised Statutes, is amended to read as follows:

"§408A-9 Guarantee of thrift accounts. (a) Thrift accounts plus unpaid interest thereon accrued as of the last interest accrual date prior to the date of receivership of the property and business of a member or the date such member is declared bankrupt, whichever first occurs, shall be guaranteed by the guaranty corporation as follows:

- (1) For single ownership thrift accounts in any one institution:
 - (A) Funds owned by an individual and invested in the manner set forth in this paragraph [(1)] shall be added together and guaranteed up to \$10,000 in the aggregate.
 - (B) Individual accounts invested in one or more accounts in his own name shall be guaranteed up to \$10,000 in the aggregate.
 - (C) Funds owned by a principal and invested in one or more accounts in the name or names of agents or nominees shall be added to any individual account of the principal and guaranteed up to \$10,000 in the aggregate.
 - (D) Accounts held by a guardian, custodian, or conservator for the benefit of his ward or for the benefit of a minor under the "Hawaii Uniform Gifts to Minors Act" and invested in one or more accounts in the name of the guardian, custodian, or conservator shall be added to any individual account of the ward or minor and guaranteed up to \$10,000 in the aggregate.
- (2) For testamentary accounts in any one institution:
 - (A) Funds owned by an individual and invested in a revocable trust account, or tentative trust account, payable-on-death account, or similar account evidencing an intention that on his death the funds shall belong to his spouse, child, or grandchild shall be guaranteed up to \$10,000 in the aggregate as to each such named beneficiary, separately from any other account of the owner.
 - (B) If the named beneficiary of such an account is other than the owner's spouse, child, or grandchild, the funds in such account shall be added to any individual account of such owner and guaranteed up to \$10,000 in the aggregate.
- (3) For accounts in any one institution held by [[]personal representatives[]], being funds of a decedent held in the name of the decedent or in the name of the [[]personal representative[]] of his estate and invested in one or more accounts shall be guaranteed up to \$10,000 in the aggregate, separately from the individual accounts of the beneficiaries of the estate or of the [[]personal representative[]].
- (4) For corporation or partnership accounts in any one institution, being accounts of a corporation or partnership engaged in any independent activity, up to \$10,000 in the aggregate. An account of a corporation or partnership not engaged in an independent activity shall be deemed to be owned by the person owning such corporation or comprising such partnership and, for guarantee purposes, the interest of each person in such account shall be added to any other account individually owned by such person and guaranteed up to \$10,000 in the aggregate.

- (5) For unincorporated association accounts in any one institution, being accounts of an unincorporated association engaged in any independent activity up to \$10,000 in the aggregate. An account of an unincorporated association not engaged in any independent activity shall be deemed to be owned by the persons comprising such association and, for guarantee purposes, the interest of each owner in such account shall be added to any other account individually owned by such person and guaranteed up to \$10,000 in the aggregate.
- (6) For joint accounts in any one institution:
 - (A) Accounts owned jointly, whether as joint tenants with right of survivorship, as tenants by the entirety, or as tenants in common, shall be guaranteed separately from account individually owned by the co-owners.
 - (B) A joint account shall be deemed to exist, for purposes of guarantee of accounts, only if each co-owner has personally executed an account signature card and possesses redemption rights.
 - (C) An account owned jointly which does not qualify as a joint account for purposes of guarantee of accounts shall be treated as owned by the named persons as individuals, and the actual ownership interest of each such person in such account shall be added to any other account individually owned by such person and guaranteed up to \$10,000 in the aggregate.
 - (D) All joint accounts owned by the same combination of individuals shall first be added together and guaranteed up to \$10,000 in the aggregate.
 - (E) The interest of each co-owner in all joint accounts owned by different combinations of individuals shall then be added together and guaranteed up to \$10,000 in the aggregate.
- (7) For trust accounts in any one institution being all trust interests for the same beneficiary invested in accounts established pursuant to valid trust arrangements created by the same settlor (grantor) shall be added together and guaranteed up to \$10,000 in the aggregate, separately from other accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangements.

(b) The guaranty corporation shall not insure thrift accounts under this section after June 30, 1984, and no member shall thereafter represent that such guarantee exists. Once each week for the three consecutive weeks preceding July 1, 1984, the guaranty corporation shall publish in a newspaper of general circulation in each county in which a member has an office, a conspicuous notice to the effect that it no longer insures the thrift account obligations of its members.

Prior to July 1, 1984, if a member's thrift accounts become insured by the Federal Deposit Insurance Corporation, the member shall terminate the guarantee of its thrift accounts under this section by ceasing to represent that such guarantee exists; and with the bank examiner's approval, the member shall publish a conspicuous notice of such cessation in a newspaper of general circulation in each county in which it has an office, once each week for three consecutive weeks. As of the

termination of the guarantee, the member's obligation to pay the assessments required by section 408A-10 shall be reduced by the amount of assessments that such member shall have paid to the Federal Deposit Insurance Corporation during the previous twelve months."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect on July 1, 1983.

(Approved June 8, 1983.)

ACT 234

S.B. NO. 30

A Bill for an Act Relating to the General Excise Tax.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that each year the State loses general excise tax revenues on properties owned by persons outside the State. The problem, of course, lies with the enforcement procedure. It is difficult to require a person outside of the State to pay taxes, unless the State knows who or where the person is.

The legislature finds that a requirement of furnishing the department of taxation with copies of the first page of a rental collection agreement or federal form 1099 will increase the ability of the department to enforce the tax collection process. The legislature further finds that since the copy of the first page of the agreement or federal form 1099 must be furnished by the person collecting the rent and managing the property for the owner, individual owners will not be affected by undue state requirements. Industry representatives have indicated that this Act would be beneficial to the State and not unduly burdensome to the industry. Additionally, the rental collection agency will be required to notify the owner that a copy of the first page of the agreement or a federal form 1099 will be filed with the department of taxation and that the owner must pay general excise taxes on gross rent. This requirement alone will increase collections through voluntary taxpayer compliance. With the current problem in state revenues an Act of this nature is long overdue.

The purpose of this Act is to provide information to the department of taxation to allow the enforcement procedure to function more efficiently.

SECTION 2. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§237- Collection of rental by third party; filing with department; statement required. (a) Every person authorized under an agreement by the owner of real property located within this State to collect rent on behalf of such owner shall be subject to this section.

(b) Every written rental collection agreement shall have on the first page of the agreement the name, address, social security number, and, if available, the general excise tax number of the owner of the real property being rented, the address of the property being rented, and the following statement which shall be set forth in bold print and in ten-point type size:

"HAWAII GENERAL EXCISE TAXES MUST BE PAID ON THE GROSS RENTS COLLECTED BY ANY PERSON RENTING REAL PROPERTY IN THE STATE OF HAWAII. A COPY OF THE FIRST PAGE OF THIS AGREEMENT, OR OF FEDERAL INTERNAL REVENUE FORM 1099 STATING THE AMOUNT OF RENTS COLLECTED, SHALL BE FILED WITH THE HAWAII DEPARTMENT OF TAXATION."

Every person entering an oral rental collection agreement shall furnish the department of taxation the information required under this subsection and shall give the owner of the property a copy of the notice required by this subsection.

(c) Every person authorized to collect rent for another person shall file a copy of the first page of the rental collection agreement with the department of taxation within thirty days after entering into the agreement, or shall file a copy of federal Internal Revenue form 1099, the property owner's social security number, and, if available, the general excise tax license number of the owner of the property being rented with the department of taxation at the same time as such forms must be filed with the Internal Revenue Service.

(d) Every person authorized under an agreement by the owner of real property located within this State to collect rent on behalf of such owner within ninety days after the effective date of this section shall furnish the department of taxation with the information required in subsection (b) and in the case of federal form 1099 such form for the taxable year 1983. The person also shall notify the owner that such information is being furnished and give the owner a copy of the notice required by subsection (b)."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on January 1, 1984.

(Approved June 9, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Film Making.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that commercial filming is viewed as an attractive, non-polluting industry which does not cause depletion of the State's natural resources and has a proven record for generating income and employment for Hawaii and her people. This industry also helps advertise the natural beauty of the islands and the charming intermixture of the diverse cultures which comprise the unique island way of life. Motion picture and television production strongly supports tourism, a mainstay of our State's economy. Productions such as Magnum, P.I., The Thorn Birds, Fantasy Island, South Pacific, Hawaii 5-0 and the many fine commercials filmed locally have served to carry the image of Hawaii to the far reaches of the world. It is not an exaggeration to say that these features and

commercials have done much to promote Hawaii as one of the leading visitor destination areas worldwide.

Since 1976, the nearly 400 features and television specials and series filmed in Hawaii, with gross budgets totalling \$326 million, have generated more than \$14 million in tax revenues. For the past seven years, this industry has provided an average 1100 jobs annually for our people and has had a total spending effect of nearly \$350 million on the State's economy.

Generally, motion picture and television feature productions, profit and non-profit documentaries, commerical video taping and still photography on state lands have been authorized by all state agencies. The department of planning and economic development currently serves as the official state liaison with the film industry which coordinates permit applications and provides other supportive services required by film producers.

The legislature finds that there may be instances of commercial filming activity lost to Hawaii attributable partly to the de-centralization involved in the permit process and the attendant duplication found to be existing in the promotion of the film production industry. The resulting loss of revenue dollars and jobs is detrimental to our State's goals of assisting and promoting this industry and attracting new industries to the State.

The purpose of this Act is to facilitate the film permit process and to support the policies, programs and activities established by the State to promote and encourage the motion picture and television production industry.

SECTION 2. Section 201-3, Hawaii Revised Statutes, is amended to read as follows:

"§201-3 Specific research and promotional functions of the department.

Without prejudice to its general functions and duties the department of planning and economic development shall have specific functions in the following areas:

- (1) Agricultural development. The department shall (i) conduct surveys and feasibility studies to determine the need for and value of additional research in the production of agricultural commodities, and the processing and marketing of agricultural food products; (ii) promote an informational program directed to the consuming public both in Hawaii and in the mainland United States relative to the qualities of agricultural commodities produced in Hawaii and in the maximum utilization of same, including processed agricultural food products; and (iii) make grants to and contracts with appropriate agencies, firms, or individuals for surveys, studies, research, and promotion. With respect to agricultural development, the department's activities shall be consistent with the policies, programs, and activities of the governor's agriculture coordinating committee.
- (2) Industrial development. The department shall determine through technical and economic surveys the profit potential of new or expanded industrial undertakings; develop through research projects and other means new and improved industrial products and processes; promote studies and surveys to determine consumer preference as to design and quality and to determine the best methods of packaging, transporting,

and marketing the State's industrial products; disseminate information to assist the present industries of the State, to attract new industries to the State, and to encourage capital investment in present and new industries in the State; assist associations of producers and distributors of industrial products to introduce such products to consumers; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing.

- (3) Land development. The department shall encourage the most productive use of all land in the State in accordance with a general plan developed by the department; encourage the improvement of land tenure practices on leased private lands; promote an informational program directed to landowners, producers of agricultural and industrial commodities, and the general public regarding the most efficient and most productive use of the lands in the State; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing.
- (4) Credit development. The department shall conduct a continuing study of agricultural and industrial credit needs; encourage the development of additional private and public credit sources for agricultural and industrial enterprises; promote an informational program to acquaint financial institutions with agricultural and industrial credit needs and the potential for agricultural and industrial expansion, and inform producers of agricultural and industrial products as to the manner in which to qualify for loans; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing.
- (5) Promotion. The department shall disseminate information developed for or by the department pertaining to economic development to assist present industry in the State, attract new industry and investments to the State, and assist new and emerging industry with good growth potential or prospects in jobs, exports, and new products. The industrial and economic promotional activities of the department may include the use of literature, advertising, demonstrations, displays, market testing, lectures, travel, motion picture and slide films, and such other promotional and publicity devices as may be appropriate.

Effective upon approval of this Act and until June 30, 1984, the department shall be the central agency to coordinate film permit activities in the State and may, subject to restrictions as the department deems necessary and in consultation with and by agreements with affected agencies, issue a permit to any person for the temporary occupancy of state lands or interests therein for the purpose of allowing commercial filming of motion pictures and television feature productions, profit and non-profit documentaries, commercial video taping and still photography; provided that the department may allow a permit to continue on a day-to-day basis for additional one week periods. Coordination with appropriate agencies shall precede issuance of a permit.

A permit shall be issued upon written application in the form prescribed by the department and upon collection of the fee determined by the department under rules established pursuant to chapter 91."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

ACT 236

S.B. NO. 1057

A Bill for an Act Relating to Driver Education Instructors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-91, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) No driver training school operator's license shall be issued to an applicant: (1) [unless the department of education first determines that the applicant has the necessary instructional equipment and certifies the applicant pursuant to section 299-1 and 299-2; (2)] if the applicant, one or more of the partners in an applicant partnership, or one or more officers or directors in an applicant corporation formerly held a driver training school operator's license which was revoked or suspended and never reinstated; [(3)] (2) if the application contains any statements known by the applicant to be false; or [(4)] (3) if the application conceals any fact known to be material; and [(5)] (4) unless the applicant pays a fee of \$25.

(c) No driving instructor's license shall be issued to an applicant:

(1) Unless he:

(A) Has attained the age of majority;

[(B)] Is certified as an instructor in driver education and training by the department of education pursuant to sections 299-1 and 299-2;

(C)] (B) Is physically able to operate safely a motor vehicle;

[(D)] (C) Is able to train others in the operation of a motor vehicle; and

[(E)] (D) Holds a Hawaii driver's license for the category of vehicle that he shall use in his instruction; or

(2) If he formerly held a license in the State as driving instructor, which license was revoked or suspended and never reinstated; or

(3) If he knowingly makes a false statement or conceals a material fact in his application; and

(4) Unless the applicant pays a fee of \$10."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. The Act shall take effect upon its approval.

(Approved June 9, 1983.)

ACT 237

H.B. NO. 6

A Bill for an Act Relating to Counties.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of the Act is to implement Article VII, section 12, of the Constitution of the State of Hawaii as proposed by the Hawaii Constitutional Convention of 1978 and ratified by the voters of November 7, 1978, and pertaining to the authorization for the issuance of special purpose revenue bonds by counties to assist a processing enterprise consisting of the design, acquisition, coordination, installation, or modification of pollution control projects for the disposal of solid waste. This Act establishes a means whereby such pollution control projects can be financed through the issuance of special purpose revenue bonds by counties.

The legislature of the State of Hawaii hereby finds and declares that the health, safety, and general welfare of the people of the State require that every opportunity be taken to assist in the provision of pollution control projects for the disposal of solid waste at the lowest possible cost and particularly projects which incidentally provide electric energy; that due to the geographical location of the State, disposal of solid waste creates an urgent need for alternatives to landfill; that due to the foregoing it is in the public interest of the people of the State to assist such pollution control projects; that efforts are being made at state and federal levels to lower the cost of solid waste disposal, including at the federal level the provisions of Section 103(b)(4)(E) of the U.S. Internal Revenue Code of 1954, as amended, exempting from federal taxation the interest on bonds issued by public bodies for the provision of facilities for, among other things, solid waste disposal; that the interest on borrowings necessary to provide such facilities is a significant factor in the cost of such facilities and that the interest on indebtedness incurred to finance such facilities would be less if tax exempt; that the protection and promotion of the public health and the maintenance of a standard of living compatible with decency and health at the lowest practicable cost can be encouraged with the assistance of the State through the issuance of special purpose revenue bonds by the counties of the State to finance the cost of facilities for the disposal of solid waste; and that the issuance of special purpose revenue bonds to finance the cost of facilities for the disposal of solid waste is a valid public purpose and in the public interest.

The legislature finds and declares that the health, safety, and general welfare of the people of the State require that every opportunity be taken to assist processing enterprises consisting of pollution control projects for the disposal of solid waste.

SECTION 2. Chapter 48E, Hawaii Revised Statutes, is repealed and the Hawaii Revised Statutes is amended by adding a new chapter to read as follows:

"CHAPTER 48E POLITICAL SUBDIVISION POLLUTION CONTROL SPECIAL PURPOSE REVENUE BONDS

§48E-1 Definitions. As used in this chapter, unless the context otherwise requires:

- (1) "Cost" or "costs" as applied to a pollution control project or portion thereof financed under this chapter includes all or part of:
 - (A) The cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a pollution control project;
 - (B) The cost of demolishing or removing any buildings or structures on land thus acquired, including the cost of acquiring any lands to which such buildings or structures may be moved;
 - (C) The cost of all machinery and equipment;
 - (D) Financing charges, interest accruing prior to, during, and for a period after completion of construction as determined by the county, provisions for reserves for principal and interest, and for extensions, enlargements, additions, replacements, renovations, and improvements;
 - (E) The cost of architectural, engineering, financial, and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any pollution control project or incident to the construction, acquisition, or financing of any pollution control project, including without limitation, premiums to insure payments of the principal of and interest on special purpose revenue bonds issued under this chapter or the payment of the obligations of a project party under a project agreement, and fees for issuance of letters of credit or other banking arrangements whether for the county or a project party.
- (2) "County" means the city and county of Honolulu, the county of Hawaii, the county of Kauai, and the county of Maui.
- (3) "Director" or "director of finance" means the director of finance of a county.
- (4) "Governing body" means the body, council, or board charged with exercising the legislative authority of a county.
- (5) "Person" means an individual, firm, partnership, corporation, association, cooperative, or other legal entity, governmental body, or agency, board, bureau, or other instrumentality thereof, or any combination of two or more of the foregoing.
- (6) "Pollution control project" means any processing enterprise consisting of property, or improvements or alterations to property, designed, acquired, constructed, installed, or modified, and certified as necessary or desirable by the state department of health, to abate, control, reduce,

treat, eliminate, or dispose of solid waste, and specifically includes facilities which incidentally provide for the recovery of energy or material resources, or both.

- (7) "Project agreement" means any lease, sublease, loan agreement, conditional sale agreement, or other similar financing contract or agreement, or combination thereof entered into under this chapter by the county, including the financing of a pollution control project from the proceeds of the special purpose revenue bonds.
- (8) "Project party" means the person with whom the county enters into a project agreement.
- (9) "Special purpose revenue bonds" means bonds, notes, or other evidences of indebtedness of a county issued pursuant to this chapter.

§48E-2 County powers. In addition to any other powers provided by law, a county may:

- (1) Subject to the approval of the governing body of the county, enter into, amend, supplement, and carry out a project agreement with a project party, and enter into and carry out any other agreement whereby the obligations of a project party under a project agreement shall be unconditionally guaranteed or insured by, or the performance thereof assigned to, a person other than the project party;
- (2) By separate ordinance, approved by two-thirds of the members to which the governing body of the county is entitled, issue special purpose revenue bonds pursuant to this chapter in such principal amounts as may be necessary to finance the cost of the pollution control project;
- (3) Lend or otherwise apply the proceeds of the special purpose revenue bonds issued for a pollution control project, either directly or through a trustee or a project party, for use and application by the project party in the acquisition, construction, installation, or modification of a pollution control project, or agree with the project party whereby any of these activities shall be undertaken or supervised by that project party or by a person designated by the project party;
- (4) As security for the payment of the principal of and interest on special purpose revenue bonds issued to finance the costs of the pollution control project and any related agreement:
 - (A) Pledge, assign, hypothecate, or otherwise encumber all or any part of the revenues and receipts derived or to be derived by the county under the project agreement;
 - (B) Pledge and assign the interests and rights of the county under the project agreement or other agreement with respect to such pollution control project;
 - (C) Pledge and assign any bond, debenture, note, or other evidence of indebtedness received by the county with respect to such pollution control project; or
 - (D) Any combination of the foregoing;

- (5) With or without terminating a project agreement, exercise any and all rights provided by law for entry and reentry upon or to take possession of a pollution control project at any time, or from time to time, upon breach or default by a project party under a project agreement, including any action at law or in equity for the purpose of effecting its rights of entry or reentry or obtaining possession of the project or for the payments of the rentals, user taxes, or charges or any other sums due and payable by the project party to the county pursuant to the project agreement; and
- (6) Do all things necessary or proper to carry out the purposes of this chapter.

§48E-3 Compliance with state and local law. The financing of and pollution control project under this chapter shall not relieve any project party or other user of such project from compliance with all laws, ordinances, and rules and regulations of the State and county or any departments or boards thereof with respect to the construction, operation, and maintenance of pollution control projects, compliance with master plans or zoning laws or regulations, obtaining of building permits, compliance with building and health codes and other laws, ordinances, or rules and regulations of similar nature pertaining to the project, and such laws shall be applicable to such project party or such other user to the same extent they would be if the costs of the pollution control project were directly financed by the project party.

§48E-4 Conditions precedent. The county shall not undertake any pollution control project or enter into any project agreement with respect thereto unless the governing body shall first find and determine either:

- (1) That the proposed project party is a responsible party, whether by reason of economic assets, experience in the type of enterprise to be undertaken through the pollution control project, or otherwise, or
- (2) That the obligations of the project party under the project agreement will be unconditionally guaranteed or insured by, or that the performance thereof is assigned to, or guaranteed or insured by, a person who is a responsible party, whether by reason of economic assets, experience in the type of enterprise to be undertaken through the pollution control project, or otherwise.

§48E-5 Project agreement. (a) Any project agreement entered into by the county shall contain provisions unconditionally obligating the project party to pay the county during the period or term of the project agreement, exclusive of any renewal or extension thereof and whether or not the pollution control project is used or occupied by the project party, at such time or times and in such amount or amounts that will be at least sufficient:

- (1) To pay the principal of, and premium, if any, and interest on all special purpose revenue bonds issued to finance the costs of the pollution control project as and when the same becomes due, including upon any required redemption thereof;

- (2) To establish or maintain such reserves, if any, as may be required by the instrument authorizing or securing the special purpose revenue bonds;
- (3) To pay the fees and expenses of the paying agents and trustees for the special purpose revenue bonds;
- (4) To pay the expenses incurred by the county in administering the bonds or in carrying out the project agreement; provided that moneys received by the county to pay such expenses shall not be, nor be deemed to be, revenues derived under the project agreement which may be pledged as security for special purpose revenue bonds and shall be paid into the county fund from which such payments are made; and
- (5) To pay any and all of the cost, direct or indirect, in the operation, maintenance, and repair of the pollution control project.

(b) Any project agreement entered into by the county may contain such provisions as the county deems necessary or desirable to obtain or permit the participation of the state and federal government in the pollution control project or in the financing of the costs thereof.

(c) A project agreement shall provide that the county shall have all rights and remedies generally available at law or in equity to reenter and take possession of a pollution control project upon the breach or default by a project party of any term, condition, or provision of a project agreement.

(d) The county may extend or renew any project agreement or any other agreement related thereto, in accordance with the project agreement.

§48E-6 Issuance of special purpose revenue bonds to finance pollution control projects. In addition to the other powers which any county otherwise may have, any county shall have the power and is authorized to issue special purpose revenue bonds to finance, in whole or in part, the costs of a pollution control project. The legislature of the State of Hawaii finds and determines that the exercise of the powers vested in a county by this chapter constitutes assistance to processing enterprises and that the issuance of special purpose revenue bonds to finance facilities of or for a project party is in the public interest.

§48E-7 Authorization of special purpose revenue bonds. (a) The governing body of a county, by an ordinance finally enacted by an affirmative vote of two-thirds of the members to which such governing body is entitled, and by a separate ordinance for each single pollution control project or a single program of pollution control projects may authorize the issuance of special purpose revenue bonds for the purposes of this chapter; provided the governing body of such county finds that the issuance of such bonds is in the public interest. Special purpose revenue bonds issued pursuant to this chapter may be in one or more series for each single pollution control project or single program of pollution control projects. The special purpose revenue bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding thirty years from their date or dates, shall have such rank or priority, and may be made redeemable before maturity at the option of the county, the holder, or both, at such price or prices and under such terms and conditions, all as may be determined by the county.

The county shall determine the form of the special purpose revenue bonds, including any interest coupons to be attached thereto, and the manner of execution of the special purpose revenue bonds, and shall fix the denomination or denominations of the special purpose revenue bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State of Hawaii. The special purpose revenue bonds may be issued in coupon or in registered form, or both, as the county may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The county may sell special purpose revenue bonds in such manner, either at public or at private sale, and for such price as it may determine to be for the best interest of the county.

(b) Prior to the preparation of definitive special purpose revenue bonds, the county may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(c) Should any bond issued under this chapter or any coupon appertaining thereto become mutilated or be lost, stolen, or destroyed, the county may cause a new bond or coupon of like date, number, and tenor to be executed and delivered in exchange and substitution for, and upon the cancellation of such mutilated bond or coupon, or in lieu of and in substitution for, such lost, stolen, or destroyed bond or coupon. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen, or destroyed bond or coupon has (1) paid the reasonable expense and charges in connection therewith and (2) in the case of a lost, stolen, or destroyed bond or coupon, has filed with the county, or its fiduciary, evidence satisfactory to such county or its fiduciary that such bond or coupon was lost, stolen, or destroyed and that the holder was the owner thereof and (3) has furnished indemnity satisfactory to the county.

(d) The governing body of a county issuing special purpose revenue bonds pursuant to this chapter in its discretion may provide that CUSIP identification numbers shall be imprinted on such bonds. If such numbers are imprinted on any such bonds (1) no such number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted, and (2) no liability shall attach to the county or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for such bonds, by reason of such numbers or any use made thereof, including any use thereof made by the county, any such officer, or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use. The governing body in its discretion may require that all cost of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this section, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

§48E-8 Special purpose revenue bond anticipation notes. Whenever the governing body of the county shall have authorized the issuance of special purpose revenue bonds under this chapter, special purpose revenue bond anticipation notes of the county are authorized to be issued in anticipation of the issuance of such

bonds and of the receipt of the proceeds of sale thereof, for the purposes for which such bonds have been authorized. All special purpose revenue bond anticipation notes shall be authorized by the governing body of the county issuing the notes, and the maximum principal amount of such notes shall not exceed the authorized principal amount of such bonds. The notes shall be payable from and secured by the proceeds of sale of the special purpose revenue bonds in anticipation of which the notes are issued and the revenues from which would be payable and by which would be secured such bonds; provided that to the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of such bonds, the maximum amount of bonds in anticipation of which the notes are issued that has been authorized shall be reduced by the amount of notes paid in such manner. The authorization, issuance, and the details of such notes shall be governed by the provisions of this chapter with respect to special purpose revenue bonds insofar as the provisions may be applicable; provided that each note, together with all renewals and extensions thereof, or refundings thereof by other notes issued under this section, shall mature within five years from the date of the original note.

§48E-9 Powers with respect to and security for special purpose revenue bonds. In order to secure the payment of any of the special purpose revenue bonds issued pursuant to this chapter, and interest thereon, or in connection with such bonds, a county shall have the power as to such bonds:

- (1) To pledge all or any part of the receipts derived by the county from the project agreement to the punctual payment of special purpose revenue bonds issued for the pollution control project financed from the proceeds thereof, and interest thereon, and to covenant against thereafter pledging any such receipts to any other bonds or any other obligations of the county for any other purpose, except as otherwise provided in the ordinance providing for the issuance of additional special purpose revenue bonds to be equally and ratably secured by a lien upon such revenues;
- (2) To pledge and assign the project agreement and other agreements related thereto rights, duties, and obligations of the county thereunder, including the right to receive revenues thereunder;
- (3) To covenant as to the use and disposition of the proceeds from the sale of such bonds;
- (4) To covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof;
- (5) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default" and the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;
- (6) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, conditions, or obligation;
- (7) If deemed necessary or advisable by the director of finance, to designate a national or state bank or trust company within or without the State to serve as trustee for the holders of the special purpose revenue

bonds and to enter into a trust indenture or trust agreement or indenture of mortgage with such trustee. The trustee may be authorized to receive and receipt for, hold, and administer the proceeds of the special purpose revenue bonds issued for the pollution control project and to apply the proceeds to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the revenues and other receipts derived by the county under the project agreement and to apply such revenues and receipts to the payment of the principal of, or interest on such special purpose revenue bonds, or both. If a trustee is appointed, any trust indenture, trust agreement, or indenture of mortgage entered into with the trustee may contain any covenants and provisions as may be deemed necessary, convenient, or desirable by the director in order to secure such bonds. The county may pledge and assign to the trustee the project agreement and other agreements related thereto and the rights of the county thereunder, including the rights to revenues and receipts thereunder. If the director of finance appoints a trustee for the holders of the special purpose revenue bonds, the director may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of the special purpose revenue bonds, or may elect to limit the functions the director performs as such fiscal agent. The director may appoint the trustee to serve as the fiscal agent, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the director deems necessary, advisable, or expedient, including, without limitation, the holding of the special purpose revenue bonds and coupons which have been paid and the supervision and conduction or the destruction thereof in accordance with law;

- (8) If a trustee is not appointed pursuant to paragraph (7), to hold such proceeds or revenues and receipts, as the case may be, in a separate account in the treasury of the county, to be applied solely to the carrying out of the ordinance, trust indenture, trust agreement, or indenture of mortgage, if any, authorizing or securing such special purpose revenue bonds;
- (9) To execute all instruments necessary or convenient in the exercise of the powers granted by this chapter or in the performance of its covenants and duties; and
- (10) To make such covenants and do any and all such acts and things as may be necessary or convenient or desirable in order to secure such bonds, or in the discretion of the governing body of the county, which tend to make such bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated in this chapter; it being the purpose hereof to give each county the power to do all things in the issuance of such bonds and for their security that may be consistent with the Constitution of the State of Hawaii.

§48E-10 Lien of special purpose revenue bonds. (a) Special purpose revenue bonds shall be payable from the revenues derived by the county from payments made to the county under the project agreement or other agreements entered into with respect to the pollution control project, and shall be secured by such revenues and by the pledges and assignments authorized by this chapter.

(b) All special purpose revenue bonds of the same issue shall have a prior and paramount lien on the revenues derived from the project agreement with respect to the pollution control project for which such bonds have been issued, over and ahead of all special purpose revenue bonds of any issue payable from the revenues which may be subsequently issued and over and ahead of any claims or obligations of any nature against the revenues subsequently arising or subsequently incurred but subject to the prior and superior rights of outstanding bonds, claims, or obligations; provided that the right and privilege may be reserved in any ordinance authorizing the issuance of special purpose revenue bonds to subsequently issue additional special purpose revenue bonds, from time to time, payable from the receipts derived from such project agreement on a parity with the special purpose revenue bonds thereby authorized and the subsequently issued special purpose revenue bonds conforming to the reserved right and privilege then shall rank on such parity as to security and source of payment.

(c) All special purpose revenue bonds of the same issue shall be equally and ratably secured without priority by reason of date of sale, date of execution, or date of delivery, by a lien on the receipts in accordance with this chapter and the ordinance authorizing the special purpose revenue bonds.

§48E-11 Special purpose revenue bonds not a general obligation of county. No holder or holders of any special purpose revenue bonds issued under this chapter shall ever have the right to compel any exercise of taxing power of the county to pay such bonds or the interest thereon. No special purpose revenue bond shall be secured, directly or indirectly, by the general credit of the county or by any revenues or taxes of the county, other than receipts derived from the project agreement with respect to the pollution control project for which such bonds have been issued or from any security for such project agreement, and no moneys other than such receipts shall be applied to the payment thereof. Each special purpose revenue bond issued under this chapter shall recite in substance that such bond, including interest thereon, is not a general obligation of the county and is payable from the receipts pledged to the payment thereof, and that such bond is not secured directly or indirectly by the full faith and credit or the general credit of the county or by any revenues or taxes of the county other than the revenues specifically pledged thereto.

§48E-12 Validity of special purpose revenue bonds. The special purpose revenue bonds bearing the signature or facsimile signature of officers in office on the date of the signing thereof shall be valid and sufficient for all purposes, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the county issuing the bonds. The validity of the special purpose revenue bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the pollution control project for which the special purpose revenue bonds are issued.

The ordinance authorizing the special purpose revenue bonds may provide that the special purpose revenue bonds shall contain a recital that they are issued pursuant to this chapter, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

§48E-13 Use of receipts derived from project agreement. Any county issuing special purpose revenue bonds pursuant to this chapter for a pollution control project shall have the right to appropriate, apply, or expend the receipts derived from the project agreement entered into with respect thereto for the following purposes:

- (1) To pay when due all special purpose revenue bonds and interest thereon, for the payment of which the receipts are or have been pledged, charged, or otherwise encumbered, including reserves therefor; and
- (2) To the extent not paid by the project party to provide for all expenses of administration, operation, and maintenance of the pollution control project, including reserves therefor.

Unless and until adequate provision has been made for the foregoing purposes, no county shall transfer receipts derived from the project agreement to its general fund.

§48E-14 Special purpose revenue bonds exempt from taxation. Special purpose revenue bonds issued pursuant to this chapter and the income therefrom shall be exempt from all state and county taxation except inheritance, transfer, and estate taxes.

§48E-15 Exemption from taxation by county property. All revenues derived by the county from any project agreement shall be exempt from all state and county taxation. Any right, title, and interest of the county in any pollution control project shall also be exempt from all state and county taxation. Except as otherwise provided by law, the interest of the project party or user of such project in a pollution control project or under the project agreement or related agreement shall not be exempt from taxation to a greater extent than it would be if the costs of the pollution control project were directly financed by the project party or other user.

§48E-16 Refunding special purpose revenue bonds. The governing body of a county, by separate ordinance finally enacted by an affirmative vote of two-thirds of the members to which such governing body is entitled, may authorize the issuance of refunding special purpose revenue bonds of the county for the purpose of refunding any special purpose revenue bonds then outstanding and issued by that county under this chapter, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. Each county is authorized to provide, by separate ordinance finally enacted by an affirmative vote of two-thirds of the members to which such governing body is entitled, for the issuance of a single issue of special purpose revenue bonds of the county for the combined purposes of (1) financing the cost of a pollution control project or improvement or expansion thereof, and (2) refunding special purpose revenue bonds of the county which theretofore shall have been issued under this chapter and then shall be outstanding, whether or not such outstanding special purpose revenue bonds have matured or then are subject to redemption.

Nothing in this section shall require or be deemed to require a county to elect to redeem or prepay special purpose revenue bonds being refunded which were issued in the form customarily known as term bonds in accordance with any sinking fund installment schedule specified in any ordinance authorizing the issuance thereof, or, if a county elects to redeem or prepay any such bonds, to redeem or prepay as of any particular date or dates. The issuance of such special purpose revenue bonds, the maturities, and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the county with respect to the bonds, shall be governed by the foregoing provisions of this chapter insofar as the provisions may be applicable.

§48E-17 Status of special purpose revenue bonds under Uniform Commercial Code. Notwithstanding any of the provisions of this chapter or any recitals in any special purpose revenue bonds issued under this chapter, all such special purpose revenue bonds shall be deemed to be investment securities under the Uniform Commercial Code, chapter 490, subject only to the provisions of the special purpose revenue bonds pertaining to registration.

§48E-18 Special purpose revenue bonds as legal investments and lawful security. The special purpose revenue bonds issued pursuant to this chapter shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for all public funds of the State or other political corporations or subdivisions of the State. Such special purpose revenue bonds shall be eligible to secure the deposit of any and all public funds of the State and any and all public funds of counties or other political corporations or subdivisions of the State, and such bonds shall be lawful and sufficient security for such deposits to the extent of their value when accompanied by all unmatured coupons appertaining thereto.

§48E-19 Construction of this chapter. The powers conferred by this chapter shall be supplemental to the powers conferred by any other law. Nothing contained in this chapter shall prohibit a county from providing for a pollution control project of the nature described in this part as a public undertaking, improvement, or system under chapter 47 or 49."

SECTION 3. Chapter 46, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

"§46- Contracts for solid waste disposal. Any other law to the contrary notwithstanding, a county is authorized from time to time to contract with users or operators of a project for the abatement, control, reduction, treatment, elimination, or disposal of solid waste, whether established or to be established under chapter 48E or as a public undertaking, improvement, or system under chapter 47 or 49, or otherwise. The contract may be included in an agreement, may be for such periods as agreed upon by the parties, and, without limiting the generality of the foregoing, may include:

- (1) Provisions for the delivery to the project of minimum amounts of solid waste and payments for the use of the project based on the delivery of the minimum amounts (which payments the political subdivision may

be obligated to make, whether or not such minimum amounts are actually delivered to the project);

- (2) Unit prices, which may be graduated; and
- (3) Adjustments of the minimum amounts and the unit prices.

The payments, unit prices, or adjustments need not be specifically stated in the contract but may be determined by formula if set forth in the contract. The contract may include provisions for arbitration and reasonable restrictions against other disposal by the county or by other public or private entities or persons over which the county shall have jurisdiction of the substances covered by the contract while the contract is in force and disposal under the contract is practicable.

§46- Transactions for utility services. Any other law to the contrary notwithstanding, the disposal of solid waste by a county or project party is a utility service, but shall not place the county or project party in any way under the jurisdiction of the public utilities commission; provided that in the case of a project party, the project party shall not provide any utility services other than the disposal of solid waste or the sales of goods or commodities, including electric energy, produced by the operation of the pollution control project where such sales are made only to registered public utilities, industrial or commercial concerns, or counties or county agencies and not to the general public. If the project party is also a registered public utility, nothing contained in this section shall prohibit the sale of electric energy to the general public.

§46- Liquidated damages. Any other law to the contrary notwithstanding, a contract for the provision of utility services, goods, or commodities, including water or electrical energy, by a county or by a project party, may provide for the payment of liquidated damages by a purchaser or by the project party; provided that such liquidated damages provision shall be deemed reasonable and shall be enforceable if measured and established by reference to the proportionate relationship of the payments owed by the party subject to the liquidated damages provision to the total costs of the pollution control project, the cost of maintenance, operation, and repair thereof, and to the total operating capacity thereof."

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. New statutory material is underscored.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

SECTION 1. Section 604-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as otherwise provided, the district courts shall have jurisdiction in all civil actions, where the debt, amount, or damages, or the value of the property claimed, does not exceed [\$5,000.] \$10,000, except in civil actions involving summary possession or ejectment, in which case, the district court shall have jurisdiction over any counterclaim otherwise properly brought before the district court by any defendant in such summary possession or ejectment action if [said] the counterclaim arises out of and refers to the land or premises, the possession of which is being sought, regardless of the value of the debt, amount, damages, or property claim contained in the counterclaim. Attorney’s commissions or fees, including those stipulated in any note or contract sued on, interest, and costs, shall not be included in computing the jurisdictional amount. Subject to subsections (b) and (c), jurisdiction under this subsection shall be exclusive when the amount in controversy, so computed, does not exceed [\$1000.] \$5,000.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1983, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made to section 604-5, Hawaii Revised Statutes, by any other Act enacted by this regular session of 1983.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

ACT 239

H.B. NO. 272

A Bill for an Act Relating to the Department of Planning and Economic Development.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to make amendments to certain statutes affecting the department of planning and economic development and agencies assigned to the department for administrative purposes.

SECTION 2. Section 26-18, Hawaii Revised Statutes, is amended to read:

“**§26-18 Department of planning and economic development.** The department of planning and economic development shall be headed by a single executive to be known as the director of planning and economic development.

The department shall [encourage the promotion of the products of agriculture and the development and promotion of industry and tourism, through the gathering and dissemination of information of use to enterprisers, the offering of

expert consultative services, the planning of fairs, the administering of business credit programs, and other] undertake statewide planning and economic development activities, undertake energy development and management, provide economic research and analysis, plan for the use of Hawaii's ocean resources, and encourage the development and promotion of industry and international commerce through programs established by law. [With respect to the promotion of agricultural products, the department's activities shall be consistent with the policies, programs, and activities of the governor's agriculture coordinating committee.

There shall be within the department of planning and economic development a commission to be known as the board of planning and economic development which shall sit in an advisory capacity to the director of planning and economic development on matters within the jurisdiction of the department of planning and economic development. The board shall consist of nine members, one from each senatorial district and three at large.

The functions and authority heretofore exercised by the economic planning and coordination authority (except the research function transferred to the department of planning and research), the planning office with respect to tourism development as described in section 201-27, and the fair commission of Hawaii with respect to the planning of fairs are transferred to the department of planning and economic development established by this chapter.]

The [land use commission is] following are placed in the department of planning and economic development for administrative purposes[. The functions, duties, and powers, subject to the administrative control of the director of planning and economic development, and the composition of the commission] as defined by section 26-35: Aloha Tower Development Corporation, Hawaii community development authority, land use commission, natural energy laboratory of Hawaii, and any other boards and commissions as shall be [as heretofore] provided by law.

The department of planning and economic development shall be empowered to establish, modify, or abolish statistical boundaries for cities, towns, or villages in the State. The department shall publish annually an up-to-date list of cities, towns, and villages for which statistical boundaries have been set."

SECTION 3. Section 206J-3, Hawaii Revised Statutes, is amended to read as follows:

"§206J-3 Aloha Tower complex; designated boundaries. Being portions of Honolulu Harbor (Governor's Executive Order No. 1793), Irwin Memorial Park (Governor's Executive Order No. 472), Fort Street and Ala Moana

Being also portions of:

L. P. 8489 L.C.Aw. 11219 to the Hawaiian Government, Sea Boundary of "Kaakaukui" R. P. 4483 L.C.Aw. 7712 Apana 6 No. 1 to M. Kekuanaoa no V. Kamamalu, R. P. 4532 L.C.Aw. 9971 Parts 1 and 2 to W.P. Leleiohoku and L.C.Aw. 784 Parts 1 and 2 to James Robinson, Exchange Deed: Minister of Interior to Samuel C. Allen dated December 21, 1897 and recorded in Liber 173, Pages 432-434, Grant 1753 No. 2 to William Miller, Land Court Application 787 Land situated at Kaakaukui and Waikahalulu, Honolulu, Oahu, Hawaii

Beginning at the most Northerly corner of this piece of land, on the West side of the present Nimitz Highway (Honolulu-Pearl Harbor Road), the coordinates

of said point of beginning referred to Government Survey Triangulation Station "Punchbowl" being 1,160.55 feet South and 5,210.56 feet West, thence running by azimuths measured clockwise from true South:

1. 6° 00' 1.45 feet along the West side of the present Nimitz Highway;
2. 276° 00' 5.50 feet along same;
3. 6° 00' 28.00 feet along same;
4. 6° 00' 50.00 feet along same;
5. 6° 00' 241.10 feet along same;
6. 6° 00' 35.00 feet along same;
7. [Thence along same on a curve to the right with a radius of 110.00 feet, the chord azimuth and distance being 12°20'25" 24.30 feet;]
331° 06' 50" 166.90 feet along the Westerly side of the present Nimitz Highway;
- [8. Thence along same on a curve to the right with a radius of 60.66 feet, the chord azimuth and distance being 26° 18' 40" 16.11 feet;
9. 59° 35' 22.85 feet along the Westerly side of the present Nimitz Highway;
10. 329° 35' 72.15 feet along same;
11. Thence along same on a curve to the right with a radius of 72.00 feet, the chord azimuth and distance being 294° 10' 02" 83.45 feet;
- 12.] 8. 329° 35' 226.07 feet along the Westerly side of the present Nimitz Highway;
- [13.] 9. Thence along same on a curve to the right with a radius of 72.29 feet, the cord azimuth and distance being 11° 12' 30" 96.04 feet;
- [14.] 10. 52° 50' 120.37 feet along the Northerly side of Bishop Street;
- [15.] 11. 52° 50' 69.73 feet along same;
- [16.] 12. 52° 50' 110.32 feet across Ala Moana;
- [17.] 13. 149° 35' 29.33 feet along the remainder of Honolulu Harbor (Governor's Executive Order No. 1793), the true azimuths and distances to a "+" cut on concrete (found and adopted) being (a) 149° 35' 2.36 feet and (b) 239° 35' 2.00 feet;
- [18.] 14. 59° 34' 594.52 feet along same;
- [19.] 15. Thence along same on a curve to the right with a radius of 12.98 feet, the chord azimuth and distance being 116° 17' 45" 21.70 feet;
- [20.] 16. 173° 01' 30" 608.15 feet along the remainder of Honolulu Harbor (Governor's Executive Order No. 1793);

[21.]	<u>17.</u>	228° 25'	495.96	feet along same;
[22.]	<u>18.</u>	318° 25'	0.94	of a foot along same;
[23.]	<u>19.</u>	228° 25'	459.72	feet along same to the point of beginning and containing an area of [567,442] <u>572,408</u> square feet or [13.027] <u>13.141</u> acres.

[Vehicle access shall not be permitted into and from Nimitz Highway (Honolulu-Pearl Harbor Road) and Bishop Street, over and across Courses 1, 2, 3, 5, 8, 9, 11, 12, 13, and 14 of the above described Aloha Tower complex.]”

SECTION 4.¹ Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5.¹ This Act shall take effect upon its approval.

(Approved June 9, 1983.)

Note

1. Renumbered to correct obvious error.

ACT 240

H.B. NO. 286

A Bill for an Act Relating to the Practice of Barbering.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 438-3, Hawaii Revised Statutes, is amended to read as follows:

“§438-3 Creation of state board. There shall be a state board of barbers consisting of seven members who shall be appointed and may be removed by the governor in the manner prescribed in section 26-34. The members shall be [citizens] residents of the State and five members must have practiced barbering in the State for at least five consecutive years immediately preceding [his] the member's appointment and two shall be public members. [Three of the members of the board practicing barbering shall be residents of Oahu, and two practicing barbering shall be residents of the outside islands.] Each member shall serve for a term of four years, and until [his] the member's successor is appointed and qualified.”

SECTION 2. Section 438-4, Hawaii Revised Statutes, is amended to read as follows:

“§438-4 Organization of the board; powers and duties. (a) The board of barbers shall have a [president, secretary, and treasurer] chairman who shall be elected annually from among its members. [The offices of the secretary and treasurer may be filled by the same member, as the board may determine.] An executive secretary assigned by the department of commerce and consumer affairs shall service the board. The [president] chairman and the board's executive secretary may administer oaths.

[(b) The secretary shall receive an annual salary to be fixed by the board, not exceeding \$600 and his necessary expenses actually incurred in the performance

of his duties. He shall not be subject to the classification law or be a member of the employees retirement system of the State.

(c) (b) The board shall meet in Honolulu [on the second Tuesday] in January [and], April, July, and October of each year and at such other times and places as the board may direct. A majority of the members of the board shall constitute a quorum for the transaction of business. The board shall prescribe rules for its government and have a seal with which to authenticate its acts.

[(d)] (c) The board shall keep a record of its proceedings. It shall keep a register of applicants for certificates showing the name of the applicant, the name and location of [his] the applicant's place of occupation or business, and whether the applicant has been granted or refused a certificate. The books and records of the board shall be prima facie evidence of matters therein contained and constitute public records."

SECTION 3. Section 438-5, Hawaii Revised Statutes, is amended to read as follows:

"§438-5 Powers and duties of the board. (a) The board of barbers may give examinations for the issuance of certificates of registration to practice barbering[:]; grant, revoke, or suspend such certificates; establish, subject to chapter 91 and with the approval of the governor and the director of [regulatory agencies,] commerce and consumer affairs, rules [and regulations] governing the practice of barbering which shall have the force and effect of law.

(b) The board may suspend or revoke a certificate of a person guilty of fraud in passing the examination or at any time guilty of grossly unprofessional or dishonest conduct, or addicted to liquor or drugs to such a degree as to render [him] the person unfit to practice any of the occupations classified under this chapter, or knowingly advertising by means of false or deceptive statements, or failing to display the certificates as provided in section 438-9.

(c) The board may require the attendance of witnesses and the production of such books, records, and papers as it or any person involved may desire at any hearing of any matter which the board has authority to investigate, and for the purpose may require the executive secretary to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers directed to the sheriff or chief of police of the county where such witness resides or is found which shall be served and returned in the same manner as a subpoena in a criminal case. Fees and mileage shall be paid from the funds in the state treasury for the use of the board in the same manner as other expenses of the board.

(d) Any investigation, inquiry, or hearing which the board is empowered by law to hold or undertake may be held or undertaken by or before any member or members of the board[,], or an appointed hearings officer and the finding or order of [such] that member [or], members, or hearings officer shall be deemed to be the finding or order of the board when approved and confirmed by it."

SECTION 4. Section 438-7, Hawaii Revised Statutes, is amended to read as follows:

"§438-7 Applications. Each person who desires to practice as a barber or as an apprentice barber shall file, with the [secretary of the] board of barbers a

written application, under oath, on a form prescribed and supplied by the board, shall submit satisfactory proof of the required age, good moral character, and freedom from infectious or contagious diseases, and shall deposit with the [secretary] board the required fees and two photographs of the applicant of a size to be determined by the board."

SECTION 5. Section 438-8, Hawaii Revised Statutes, is amended to read as follows:

"§438-8 Requisites for admission to examinations and registration. The executive secretary of the board of barbers shall determine the sufficiency of the preliminary qualifications of applicants for admission to examinations and registration. The following preliminary qualifications shall be sufficient:

- (1) Apprentices shall be at least sixteen years of age.
- (2) Barbers shall be at least eighteen years of age and have practiced as a barber or an apprentice for a period of at least six months under the immediate personal supervision of a barber.

The examination of applicants for certificates to practice shall be conducted under rules prescribed by the board, and shall include practical demonstrations and written, or in prescribed circumstances, oral tests."

SECTION 6. Section 438-9, Hawaii Revised Statutes, is amended to read as follows:

"§438-9 Certificates. If an applicant passes the examination to the satisfaction of the board of barbers, and has paid the fee required and complies with the requirements pertaining to [him,] the applicant, the board shall issue a certificate signed by the [president] chairman and executive secretary and attested by its seal. The certificate is evidence that the person to whom it is issued is entitled to practice as a registered apprentice barber or as a registered barber, as the case may be. The certificate shall be conspicuously displayed adjacent to or near [his] the person's work chair. No registered apprentice may independently practice barbering, but [he] may as an apprentice do any or all of the acts constituting the practice of barbering under the immediate personal supervision and employment of a registered barber."

SECTION 7. Section 438-10, Hawaii Revised Statutes, is amended to read as follows:

"§438-10 Temporary certificates. (a) Any person who is at least eighteen years of age and either (1) has a certified or photostat copy of a certificate, or certificate of registration, or license as a practicing barber from another state or country which has substantially the same requirements for licensing or registering barbers as required by this chapter, or (2) who can prove to the satisfaction of the board of barbers that [he] the person has practiced as a barber in another state or country for at least five years immediately prior to making application in this State, shall, upon payment of the required fee be issued a permit to practice as a journeyman barber only until [he] the person is called by the board for examination to determine [his] the person's fitness to receive a certificate of registration to practice barbering. If [he] the applicant fails to pass the required examination, [he] the applicant shall be allowed to practice as a journeyman barber until [he is] called

by the board for the next term of examinations. If [he] the applicant fails at the third examination, [he] the applicant shall cease to practice barbering in this State.

(b) Any apprentice who is a least sixteen years of age and has a certificate of registration as an apprentice in a state or country which has substantially the same requirements for registration as an apprentice as is provided by this chapter, shall upon payment of the required fee, be issued a permit to work as an apprentice until called by the board for examination to determine [his] the applicant's fitness to receive a certificate of registration as an apprentice [or barber]. If [he] the applicant passes the required examination a certificate of registration as a registered apprentice shall be issued to [him] the applicant and the time spent in such other state or country as an apprentice shall be credited by this chapter as a qualification to take the examination to determine [his] the applicant's fitness to receive a certificate of registration as a registered barber."

SECTION 8. Section 438-11, Hawaii Revised Statutes, is amended to read as follows:

"§438-11 Fees. (a) The fee to be paid by an applicant for an examination to determine [his] the applicant's fitness to receive a certificate of registration to practice barbering shall be \$15. The fee to be paid by an applicant for an examination to determine [his] the applicant's fitness to receive a certificate of registration to practice as an apprentice shall be \$10.

(b) The fee to be paid for the renewal of a certificate of registration to practice barbering shall be \$10, and for the restoration of an expired certificate \$10.

(c) The fee to be paid for the renewal of the certificate of registration to practice as an apprentice shall be \$8, and for the restoration of an expired certificate \$8.

(d) The fee to be paid by an applicant to conduct a barber shop shall be \$25. The fee to be paid for the biennial renewal of a certificate shall be \$20 and for the restoration of an expired certificate \$20.

(e) A duplicate certificate [will] shall be issued upon the filing of a statement covering the loss of a certificate or permit, verified by the oath of the applicant, and the submission by [him] the applicant of one signed photograph of [himself,] the applicant, and the payment of a fee of \$1. Each duplicate certificate or permit shall have the word "duplicate" stamped across the face thereof, and shall bear the same number as the certificate or permit that it was issued in lieu of. All fees received by the board of barbers shall be deposited by the director of [regulatory agencies] commerce and consumer affairs with the director of finance to the credit of the general fund."

SECTION 9. Section 438-12, Hawaii Revised Statutes, is amended to read as follows:

"§438-12 Renewal of certificates. The holder of a certificate issued by the board of barbers who continues in active practice shall biennially, on or before December 31 of each odd-numbered year, renew [his] the certificate and pay the renewal fee. A certificate which has not been renewed shall expire December 31 of the odd-numbered year next following the date of issuance. The holder of an

expired certificate may have the same restored within three years of the date of expiration, upon due application therefor and payment of the delinquent fees."

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

ACT 241

H.B. NO. 287

A Bill for an Act Relating to the Boxing Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 440-1, Hawaii Revised Statutes, is amended to read as follows:

"§440-1 Definitions. As used in this chapter:

"Club" means promoter, corporation, organization, or association.

"Commission" means the state boxing commission.

"Secretary" means the executive secretary to the state boxing commission.

"Contest" means match or exhibition.

"Professional boxer" is one who competes for a money prize or purse, or teaches [or], pursues, or assists in the practice of boxing as a means of obtaining a livelihood or pecuniary gain.

"Amateur boxing contest" is one in which no contestant has received or will receive, directly or indirectly, any money, prize, reward, or compensation either for the expenses of training for [such] the contest or for taking part therein, except as provided in this chapter."

SECTION 2. Section 440-2, Hawaii Revised Statutes, is amended to read as follows:

"§440-2 Commission established. There shall be a board which shall be known as the state boxing commission of Hawaii. The commission shall consist of five members who shall be appointed and may be removed by the governor in the manner provided by section 26-34. One of the members shall be a member of the Hawaiian association of [the] an amateur athletic [union] federation of the United States of America. One member shall be designated by the governor as chairman of the commission."

SECTION 3. Section 440-5, Hawaii Revised Statutes, is amended to read as follows:

"§440-5 Deputy commissioners. The director of commerce and consumer affairs may appoint and remove deputy commissioners. The boxing commission may direct [such] deputy commissioners or any one or more of them to be present at any boxing contest and, in the absence of the commission or a member thereof, to superintend and control the boxing contest, in accordance with this chapter and the rules [and regulations] passed by the commission pursuant thereto. The deputy

commissioners shall make a written report to the secretary in the manner and form prescribed by the commission of the conditions prevailing at every [such] contest.”

SECTION 4. Section 440-6, Hawaii Revised Statutes, is amended to read as follows:

“§440-6 Seal [,] and rules[, and regulations; reports to legislature]. The boxing commission shall adopt a seal and may make, amend, and repeal [such] rules [and regulations] as it considers necessary or expedient for the conduct of its business and the regulation of the matters herein committed to its charge. The rules [and regulations] when prescribed in conformity with chapter 91 have the force and effect of law.

[The commission shall submit to the legislature, through the director of regulatory agencies, at the beginning of each regular session thereof, a full report of its proceedings and may submit therewith such recommendations pertaining to its affairs as it may deem advisable.]”

SECTION 5. Section 440-7, Hawaii Revised Statutes, is amended to read as follows:

“§440-7 Secretary; other employees. The department of commerce and consumer affairs shall employ a secretary subject to chapters 76 and 77. The secretary will attend all meetings of the boxing commission, keep a full and true record of all its books, documents, and papers, prepare for service [such] notices and other papers as may be required by the commission, coordinate and supervise the activities and duties of whatever other offices the commission establishes, and otherwise act for and in behalf of the commission as the commission may prescribe and in a manner not inconsistent with the terms and intent of this chapter.

Subject to chapters 76 and 77, the department may employ [such] clerks, inspectors, and other employees as it deems necessary.”

SECTION 6. Section 440-8, Hawaii Revised Statutes, is amended to read as follows:

“§440-8 Authority to subpoena witnesses, to administer oaths and penalties. The chairman or the secretary may issue subpoenas for the attendance of witnesses before the boxing commission with the same effect as if they were issued in an action in the circuit court, and may administer oaths in all matters connected with the administration of the affairs of the commission. Disobedience of [such] a subpoena and false swearing before the secretary or the commission shall be attended by the same consequences and be subject to the same penalties as if [such] disobedience or false swearing occurred in an action in the circuit court.”

SECTION 7. Section 440-9, Hawaii Revised Statutes, is amended to read as follows:

“§440-9 Jurisdiction of commission. The boxing commission is vested with the sole jurisdiction, direction, management, and control over all professional and amateur boxing, to be conducted, held, or given within the State. No [such] professional or amateur boxing contest shall be conducted, held or given within the State except in accordance with this chapter and the rules [and regulations] adopted by the commission pursuant thereto.

The commission shall not allow any professional boxing contest unless the contestants use gloves not less than five ounces in weight and does not consist of more than fifteen rounds of a duration of more than three minutes each with an interval of one minute between each round and the succeeding round, and unless each contestant is [over] at least eighteen years of age and one hour prior to the contest is examined by a licensed physician who shall certify in writing to the referee of the contest that the contestant is physically fit to engage therein."

SECTION 8. Section 440-10, Hawaii Revised Statutes, is amended to read as follows:

"§440-10 Licenses, promoters. Any individual, partnership, club, association, organization, or corporation may make application to the boxing commission for a license to conduct, hold, and give professional boxing contests. The application shall be in writing, addressed to the commission, and duly verified by the applicant, or if the applicant is a club, association, organization, or corporation, by a duly authorized officer thereof[.],¹ and shall include the following:

- (1) Evidence of financial integrity for an individual applicant, for each partner of a partnership or joint venture, or for each corporate entity or association to include a:
 - (A) Current credit report covering a five-year period immediately preceding the date of application;
 - (B) Current financial statement certified by a registered certified public accountant or a registered public accountant;
 - (C) State tax clearance from the state department of taxation;
- (2) For corporations organized under the laws of the State of Hawaii, a copy of the affidavit of officers on file with the department of commerce and consumer affairs, or certificates of registration for foreign corporations and partnerships;
- (3) Proof that applicant has contracted for major medical insurance coverage for all boxers on the applicant's cards.

The application shall contain a recital of [such] the facts as may be specified by the commission in order for it to determine whether or not the applicant possesses the necessary physical, mental, moral, and financial qualifications to entitle the applicant to a license.

The commission shall not issue any license to conduct, hold, or give boxing contests unless it is satisfied that the applicant has complied with the conditions of this chapter, possesses the necessary qualifications for a license, and is the real party in interest, and intends to conduct, hold, or give [such] the contests or matches itself. A license may be revoked at any time if the commission finds after a hearing that the licensee is not the real party in interest or does not comply with the conditions of this chapter. Every license shall be subject to this chapter and [such] the rules [and regulations] as the commission may prescribe."

SECTION 9. Section 440-11, Hawaii Revised Statutes, is amended to read as follows:

"§440-11 License fee; bond. The application for a license to promote professional boxing contests shall be accompanied by an annual fee, or, by the fee

required for a single promotion. The fee for an annual license or for a license covering some definite period less than one year shall be \$150 in the city and county of Honolulu and \$50 in each of the other counties. The fee for a single promotion shall be ~~[\$50 [75]]~~ \$75 in the city and county of Honolulu and ~~[\$25 [37.50]]~~ \$37.50 in each of the other counties. Applications for licenses to promote amateur boxing contests shall be accompanied by an annual fee of \$75 in the city and county of Honolulu and ~~[\$25]~~ \$37.50 in each of the other counties.

Before any [such] license is granted, the applicant shall file with the boxing commission a bond in the sum of ~~[\$2,000]~~ \$5,000 with good and sufficient sureties conditioned for the faithful performance by the applicant of this chapter. In case of default in [such] ~~the~~ performance, the bond shall be forfeited and the full amount thereof, or any less amount as the commission may determine, shall be recovered by the attorney general in the name of the State and the amount so recovered shall be paid [into the state treasury.] to any aggrieved party for monetary damages sustained as a result of the applicant's default in performance, as determined by the commission, with the remainder paid into the state treasury."

SECTION 10. Section 440-12, Hawaii Revised Statutes, is amended to read as follows:

"§440-12 Licenses, participants. Any individual, partnership, or corporation may make application to the boxing commission for a license to act as physician, referee, judge, matchmaker, manager, timekeeper, second, [trainer,] announcer, or professional boxer to participate, either directly or indirectly, in any contest. The application shall be in writing, addressed to the commission, and duly verified by the applicant or, if the applicant is a corporation, by a duly authorized officer thereof. The application shall contain a recital of [such] facts as may be specified by the commission in order for it to determine whether or not the applicant possesses the necessary physical, mental, and moral qualifications to entitle the applicant to a license. Any license to act as physician, referee, judge, matchmaker, manager, timekeeper, second, [trainer,] announcer, or professional boxer may be suspended or revoked by the commission upon [such] cause as it deems sufficient after due hearing."

SECTION 11. Section 440-13, Hawaii Revised Statutes, is amended to read as follows:

"§440-13 License fees. Every applicant to whom a license is issued to participate in the conduct of professional boxing in any of the capacities hereinafter set forth shall pay annually to the State a license fee as follows: physician, ~~[\$5 [7.50]]~~ \$7.50; referee, ~~[\$25 [37.50]]~~ \$37.50; judge, ~~[\$10 [15]]~~ \$15; matchmaker, \$10; manager, ~~[\$25 [37.50]]~~ \$37.50; timekeeper, ~~[\$5 [7.50]]~~ \$7.50; second, ~~[\$5 [7.50]]~~ \$7.50; [trainer, \$5 [7.50]]; announcer, ~~[\$5 [7.50]]~~ \$7.50; and professional boxer, ~~[\$5 [7.50]]~~ \$7.50. The charge for a duplicate of a license shall be ~~[\$1 [1.50]]~~ \$1.50.

The boxing commission may establish a schedule of license fees for participation in amateur boxing contests, and may waive payment of [any such] license fees for amateur boxing contests."

SECTION 12. Section 440-14, Hawaii Revised Statutes, is amended to read as follows:

"§440-14 Licenses, limitations, renewals. No boxing contest shall be conducted, held, or given unless all the parties participating, as designated herein, are licensed by the boxing commission, and it shall be unlawful for any person, partnership, or corporation to participate in a boxing contest in any capacity designated herein unless [he] the person is licensed to do so.

The commission may limit the number of licenses issued for any purpose as specified in this chapter and may limit the number of professional boxing contests conducted, held, or given in any city, town, or in the State.

All licenses shall be for a period of not more than one year and all licenses shall expire on December 31 of the year in which [they] the licenses are issued.

The commission, at its discretion, may upon application, renew [such] the licenses for the following year.

Every club, person, partnership, or corporation licensed under this chapter is subject to [such] the rules [and regulations], and amendments thereof, as the commission may prescribe."

SECTION 13. Section 440-15, Hawaii Revised Statutes, is amended to read as follows:

"§440-15 Receipts and reports thereon. Every person, club, corporation, organization, or association holding a license to conduct, hold, or give boxing contest shall, within seventy-two hours after the determination of every boxing contest for which admission fees are charged and received, furnish to the boxing commission a written report, duly verified, showing the number of tickets sold for the contest and the amount of the gross receipts or proceeds thereof, and [such] other matters as the commission prescribes.

For the purpose of this section, gross receipts include income received from the sale of broadcasting, television, and motion picture rights."

SECTION 14. Section 440-17, Hawaii Revised Statutes, is amended to read as follows:

"§440-17 Admission tickets. All tickets of admission to any boxing contest for which admission fees are charged and received shall have printed clearly upon the face thereof the purchase price of same, and no [such] ticket shall be sold for more than the price as printed thereon."

SECTION 15. Section 440-18, Hawaii Revised Statutes, is amended to read as follows:

"§440-18 Inspectors; duties. The director of commerce and consumer affairs shall employ official representatives designated as inspectors, each of whom shall receive from the boxing commission a card or badge authorizing [him] the person to act as inspector whenever the commission may designate [him] the person to so act. An inspector or the secretary shall be present at all boxing contests and see that this chapter and the rules [and regulations] are strictly observed and shall also be present at the counting of the gross receipts or proceeds of all boxing

contests, and shall, as soon as practicable thereafter, mail or deliver to the commission the official box office statement received by [him.] the inspector or secretary.”

SECTION 16. Section 440-19, Hawaii Revised Statutes, is amended to read as follows:

“§440-19 Referees; duties. At each boxing contest there shall be in attendance a duly licensed referee designated by the boxing commission, who shall direct and control the same. Before starting the boxing contest the referee shall ascertain from each contestant the name of [his] the contestant’s chief second, and shall hold the chief second responsible for the conduct of [his] the assistant seconds during the progress of the contest.

The referee may recommend and the commission may in its discretion declare forfeited any prize, purse, or remuneration or any part thereof, to which the contestants or one of [them] the contestants may be entitled, or any part of the gate receipts for which the contestants are competing, if in its judgment the contestants or one of [them] the contestants are not honestly competing.

Every referee shall warn competing boxers of [his] the referee’s power to recommend the forfeiture of purse or purses, should there be any apparent cause for [such] the warning.

In any case where the referee decides that the contestants are not honestly competing and that under the law [their] the contestants’ purses or the purse of either contestant should be forfeited, the bout shall be stopped before the end of the last round, and no decision shall be given. A contestant earns nothing and shall not be paid for a contest in which there is stalling, faking, or dishonesty or collusion. The commission may, independently of the referee or [his] the referee’s decision, determine the merits of any contest, and take whatever action it considers proper. In any [such] case the secretary or commissioner may order the purse of the offender held up for investigation and action.

The referee shall stop the contest when either of the contestants shows a marked superiority or is apparently outclassed. The referee, [shall] at the termination of each boxing contest, shall render [his] a decision.”

SECTION 17. Section 440-20, Hawaii Revised Statutes, is amended to read as follows:

“§440-20 Judges; duties. The boxing commission may in its discretion appoint two judges to act with the referee in rendering a decision or three judges to act with a non-voting referee in rendering a decision.”

SECTION 18. Section 440-21, Hawaii Revised Statutes, is amended to read as follows:

“§440-21 Physician; duties. Every person, club, corporation, organization, or association holding a license to conduct, hold, or give boxing contests shall have in attendance at every boxing contest, a physician licensed to practice medicine in the State and duly licensed hereunder, who shall observe the physical condition of the contestants and advise the referee with regard thereto, and one hour before each contestant enters the ring certify in writing [over his signature] as to the physical condition of the contestant to engage in the boxing contest. A report of the

medical examination shall be filed with the boxing commission not later than twenty-four hours after the termination of the boxing contest.”

SECTION 19. Section 440-25, Hawaii Revised Statutes, is amended to read as follows:

“§440-25 Buildings to conform to legal requirements. All buildings or structures used or intended to be used for conducting, holding, or giving [such] boxing contests shall in all respects conform to all governmental laws, ordinances, or regulations applicable thereto.”

SECTION 20. Section 440-26, Hawaii Revised Statutes, is repealed.

SECTION 21. Section 440-27, Hawaii Revised Statutes, is amended to read as follows:

“§440-27 Financial interest in contestant prohibited. No person, club, corporation, organization, or association holding a license to conduct, hold, or give boxing contests nor any member or stockholder thereof, shall have, either directly or indirectly, any financial interest in any contestant competing in any boxing contest which [he or] it may conduct, hold, or give.”

SECTION 22. Section 440-29, Hawaii Revised Statutes, is amended to read as follows:

“§440-29 Limit of weight difference between contestants. No boxing contest shall be allowed in which the difference in weight between the respective contestants exceeds the limits which the boxing commission prescribes in its rules [and regulations].”

SECTION 23. Section 440-30, Hawaii Revised Statutes, is amended to read as follows:

“§440-30 Control and supervision of amateur boxing contest. Amateur boxing contests may be placed by the boxing commissioner under the control and supervision of any recognized national amateur athletic association whose standing has first been approved by the commission, subject, however, to [such] the rules [and regulations] as may be prescribed by the commission.”

SECTION 24. Section 440-31, Hawaii Revised Statutes, is amended to read as follows:

“§440-31 Persons barred as amateur contestants. No person shall appear as contestant in amateur boxing contests who prior thereto has received any compensation or reward in any form for displaying, exercising, or giving any example of [his] the person's skill in or knowledge of athletic exercises, or for rendering services of any kind to any athletic organization or to any person or persons as trainer, coach, instructor, or otherwise, or who has been employed in any manner professionally by reason of [his] the person's athletic skill or knowledge.”

SECTION 25. Section 440-32, Hawaii Revised Statutes, is amended to read as follows:

“§440-32 Amateur contestants entitled to medals and trophies only. A medal or trophy may be awarded to each contestant in an amateur boxing contest not

to exceed in value the sum of \$35 each. The medal or trophy shall have engraved thereon the name of the winner and the date of the event.

No other or additional prize, reward, or remuneration shall be given or awarded to any contestant unless authorized in writing by the boxing commission.

Every contestant in an amateur boxing contest or sparring match shall be registered with the commission or its amateur representative and subject to an annual physical examination. Each amateur contestant shall be examined by a physician immediately before the contest."

SECTION 26. Section 440-33, Hawaii Revised Statutes, is amended to read as follows:

"§440-33 Disposition of receipts. All moneys received by the boxing commission shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund of the State."

SECTION 27. Section 440-35, Hawaii Revised Statutes, is amended to read as follows:

"§440-35 Not to apply to army, air force, navy, or national guard. Except as provided in this section, none of the provisions of this chapter shall be construed as having any application to any boxing contest held as a recreational activity by army, air force, navy, and national guard personnel when any [such] contest is held under the supervision of any recreational officer of the army, air force, navy, or national guard, provided that no [such] contest shall be held in any place subject to the jurisdiction of the boxing commission unless the commission has first granted a license to hold the same, for which license no fee shall be charged."

SECTION 28. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 29. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

Notes

1. Underscoring missing.
2. Edited pursuant to HRS §23G-16.5.

ACT 242

H.B. NO. 289

A Bill for an Act Relating to Chiropractic.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 442-6, Hawaii Revised Statutes, is amended to read as follows:

"§442-6 Examinations. The board of chiropractic examiners shall meet as a board of examiners for the purpose of conducting examinations on the first Tuesday following the second Monday of April and October of each year, and the board shall meet otherwise regularly on the Thursday nearest the 15th day of March,

May, September, and November, and at such other times and places as may be found necessary for the performance of its duties. The office of the board shall be in Honolulu.

Each applicant shall be designated by a number instead of the name, so that [his] the applicant's identity will not be disclosed to the examiners until the papers are graded.

[All examinations shall be in writing, except in cases herein otherwise prescribed, and shall be practical in character, as taught in chiropractic schools or colleges, and designed to ascertain the fitness of the applicant to practice chiropractic.] The examinations shall be in the subjects enumerated in section 442-2[.] and shall be designed to ascertain the fitness and qualifications of the applicant to practice chiropractic. The examination shall include both practical demonstration and a written examination. The board may accept an applicant who presents bona fide evidence as having passed the national board of chiropractic examiners' examination in lieu of the written portion of the state board of chiropractic examiners' examination. A license shall be granted to any applicant who [makes] attains a [general average] score of seventy-five per cent, [and does not fall below sixty per cent in more than two subjects or branches] or higher in all subjects and sections of the examination. Any applicant failing to make the required grade, may be reexamined at the next regular examination on all of the subjects mentioned in section 442-2, upon payment of a fee of [\$25.] \$50. For each year of actual practice [since graduation] as a licensed chiropractor in another state the applicant shall be given a credit of [one] one-half per cent [on the general average.] up to twenty years maximum to be added to each score for each subject area.

[The board may grant a license to an applicant who has passed the national board of chiropractic examiners' examination, which examination may be accepted in lieu of the examination provided for herein.]”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

A Bill for an Act Relating to Alternate Energy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 269-27.2(c), Hawaii Revised Statutes, is amended to read:

“(c) The rate payable by the public utility to the producer for such nonfossil fuel generated electricity supplied to the public utility shall be as agreed between the public utility and the supplier and as approved by the public utilities commission; provided, that in the event the public utility and the supplier fail to reach an agreement for such rate, such rate shall be as prescribed by the public utilities commission according to the powers and procedures provided in this chapter.

In the exercise of its authority to determine the just and reasonable rate for the nonfossil fuel generated electricity supplied to the public utility by the producer, the commission shall establish that the rate for purchase of [firm energy, as defined in section 6-74-1 of the rules established by the commission for standards for small power production and cogeneration, in effect as of February 18, 1982, shall not be less than one hundred per cent of the estimated avoided costs as defined by section 6-74-17, subject to section 6-74-23, of the aforementioned rules.] electricity by a public utility shall not be less than one hundred per cent of the cost avoided by the utility when the utility purchases the electrical energy rather than producing the electrical energy. In determining the amount of the payment in relation to avoided cost, as that cost is or shall later be defined in the rules of the Commission, the Commission shall consider, on a generic basis the minimum floor a utility should pay, giving consideration not only to the near-term adverse consequences to the ultimate consumers of utility provided electricity, but also to the long term desirable goal of encouraging to the greatest extent practicable, the development of alternative sources of energy.

Nothing in this subsection shall affect existing contracts between public utilities and suppliers of nonfossil fuel generated electricity."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

Note

1. Act also contains bracketed matter.

ACT 244

H.B. NO. 783

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 602-55, Hawaii Revised Statutes, is amended to read as follows:

"**[§602-55]** **Panels; substitute judge.** Parties shall be entitled to a hearing before a panel of not less than three intermediate appellate judges. In the event the number of available intermediate appellate judges is insufficient to make up a panel because of vacancy or disqualification, the chief justice of the supreme court may designate circuit judges or retired intermediate appellate judges or retired supreme court justices to temporarily fill such need. The assignment to a panel shall rest in the discretion of the chief judge. A judge serving temporarily shall not be actively engaged in the practice of law. Substitute judges shall be compensated per diem at a rate of pay equivalent to that of associate intermediate appellate judges."

SECTION 2. Chapter 603, Hawaii Revised Statutes, is amended by amending the title of Part V to read as follows:

**"PART V. ASSIGNMENT TO ANOTHER CIRCUIT;
TEMPORARY ASSIGNMENT OF RETIRED CIRCUIT JUDGES."**

SECTION 3. Section 603-41, Hawaii Revised Statutes, is amended to read as follows:

"§603-41 When judge may be required to preside in another circuit[.]; temporary assignment of retired circuit judges. Whenever it is advisable, by reason of the disqualification of any circuit judge, or his inability to attend to his duties or there is a vacancy in the office of any circuit judge, or a congestion of work in any circuit court, or for any other reason, the chief justice of the supreme court may assign and require the judge of any other circuit, or any retired circuit judge, from any circuit, to hear and determine any or all matters then or thereafter pending in the circuit to which he is assigned for such purpose, and to perform any other duties pertaining to the office of circuit judge of the circuit to which he is so assigned, and while so engaged he shall have and exercise all the powers vested in a judge of that circuit. A judge serving temporarily shall not be actively engaged in the practice of law. Temporarily assigned retired circuit court judges shall be compensated per diem at a rate of pay equivalent to that of circuit court judges."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

ACT 245

H.B. NO. 915

A Bill for an Act Relating to Motor Vehicle Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Prior to the enactment of the Hawaii no-fault law in 1973, Hawaii, along with many other states, followed a "tort" or "fault" system of motor vehicle accident reparations. The enactment of the no-fault system was made in an effort to eliminate or at least to minimize the negative features of the fault system, which were substantial. The no-fault law was enacted only after extensive study and deliberation on the part of the legislature.

Nationally, the fault system had been criticized severely by a number of commentators for several decades prior to the passage of the no-fault law. One of the strongest indictments of the fault system was made by professors Robert Keeton and Jeffrey O'Connell in their book entitled Basic Protection for the Traffic Victim (Harvard University Press, 1965). Their study, which was sponsored by the Harvard Law School, concluded: "It (the present automobile claims system) provides too little, too late, unfairly allocated, at wasteful cost, and through means that promote dishonesty and disrespect for law." (at 3) (parenthetical material added).

Similarly, other studies concluded, among other things, that:

- (1) In one New York county, more than one-third of all funds paid as damages in personal injury actions went to pay the fees of the claimant's attorneys;
- (2) In Illinois, more money was spent on legal expenses arising out of accidents than was spent for medical treatment;
- (3) The individuals whose negligence caused accidents paid an almost negligible share of the total reparation received by injury victims (the bulk being paid by insurers).

After reviewing these and other studies, law professor Alfred F. Conard concluded: "These facts nullify most of the underpinning of contemporary tort theory. Tort theorists are accustomed to justify the law on the ground that it makes the wrongdoer pay, or shifts the loss to the wrongdoer. These theories prove to be poetic fallacies. The losses are not shifted to wrongdoers, but to right-doers: the conscientious drivers who buy liability insurance." 63 Mich. L. Rev. 279, 293 (1964).

The Hawaii experience under the fault system was similar to the national experience. In 1971, the legislature ordered the legislative auditor to conduct a study of motor vehicle insurance in Hawaii. The auditor responded in January 1972 with a report developed by Haldi Associates, Inc. entitled "A Study of Hawaii's Motor Vehicle Insurance Program". Among other things, the study found that:

- "(1) Hawaii motorists could have saved between \$5 and \$10 million in 1970 alone if motor vehicle insurance benefits were provided as efficiently as are accident and health insurance benefits.
- (2) Hawaii accident victims forego annually an estimated imputed cost of delay of over \$3.4 million. This is directly attributable to a time lag in settlement for the average claim of between 9 and 12 months.
- (3) A number of Hawaii accident victims receive no compensation whatsoever.
- (4) Current methods and procedures used in underwriting and marketing motor vehicle insurance in Hawaii are expensive, discriminatory and inequitable. They are largely the product of present disincentives to avoid litigation in the courts occasioned by the system of negligence law under which liability claims must be settled. One undesirable result of this system is that about 19 percent of all motorists in Hawaii have no insurance whatsoever." (at 3)

The Hawaii no-fault law was designed to minimize these problems by substantially restructuring the motor vehicle insurance reparations system. Payments are made by the insured person's own insurer in a manner similar to health insurance. This eliminates the need for the injured person to wait until a determination of fault has been made in order to receive payments from the insurer of the party at fault. Elements of the old tort system have been retained for the serious cases involving death, disfigurement, and when medical-rehabilitative expenses reach a certain "threshold" amount set by the insurance commissioner. Any person whose expenses exceed that threshold within the statute of limitations may sue for recovery. The threshold is set at a level to ensure that approximately 90 per cent of such cases are resolved by the no-fault system.

In constructing Hawaii's no-fault law system, the legislature was cognizant of two possible areas of legal objections. The first was whether the taking away of the right to sue constitutes a denial of due process. The second area was whether persons of limited means would be deprived equal protection.

The legislature viewed the due process question from the standpoint of an alteration of available remedies, rather than removal of the right to sue. While the legislature views the freedom to engage in gainful employment as a substantially more important privilege than driving, the legislature determined that the public interest would be enhanced by establishing a system of motor vehicle accident reparations which was similar to the one used for accidents on the job site. In so doing, the legislature established a structured system which bore a number of similarities to the workers' compensation system which had been in effect for years. Persons were not denied access to benefits. Only the means of obtaining them had been changed.

In the interest of equal protection, the legislature has remained sensitive to the interests of those whose ability to pay is limited, often due to circumstances beyond their control. Since the legislature has broad authority under the police power to provide for public health, safety, and welfare, however, it was their view that substantial measures can be taken to protect and assist persons who have suffered personal injuries and property damage as a result of motor vehicle accidents. Driving is a privilege, and the legislature always reserves the right to take reasonable measures to restrict this privilege in order to promote the public good. The legislature has provided a means by which indigent persons receiving public assistance may receive state funded insurance coverage.

A constant problem in the no-fault system is the minority which consistently refuses to obtain the motor vehicle insurance coverage required under the law. The legislature has taken more than one approach to encourage full compliance with the law. These approaches include:

- (1) Criminal penalties including fines, possible license suspension, jail, and impoundment of the vehicle; and
- (2) A civil approach of giving an uninsured person a shorter time period in which to reach the damage threshold and to bring a suit. Uninsured persons were required to reach the threshold and sue within two years after the date of the accident while persons who have the coverage required by law have until two years after they receive their last no-fault benefit payments to reach the threshold and to bring court action.

In recent times the Hawaii supreme court, however, eroded one of the most important elements of our no-fault system, the mandatory insurance coverage of all who choose to exercise the privilege of driving. The court's decision in Joshua v. MTL, Inc. (#8177 December 29, 1982) misread the intent of the legislature and in so doing:

- (1) Removed all no-fault law limits on the time in which an uninsured motorist may bring an action for recovery in tort; and
- (2) Eliminated the no-fault law tort threshold requirements altogether with regard to the uninsured motorists.

The effect of the decision is that law abiding citizens who obtain coverage must reach the medical-rehabilitative threshold within two years of the last payment of no-fault benefits, while persons who stubbornly refuse to obtain coverage can sue for damages without regard to the threshold and without the time limits of the no-fault law.

The plaintiff in the Joshua decision was an indigent, unemployed person who was not aware that his insurance coverage had been canceled. Any inference, however, that the removal of the limitations would apply only to persons in comparable circumstances was abruptly dispelled in McAulton v. Goldstrin (#8071 December 30, 1982), which the supreme court issued on the following day. In McAulton, the court extended the principles enunciated in Joshua to a person who chose to spend \$400 for black leather to cover his vehicle's interior rather than to purchase the no-fault insurance required by law.

The result of the Joshua and McAulton decisions is that the no-fault law is interpreted to provide law violators faster and easier access to the judicial system than law abiding citizens have. These decisions fly in the face of justice and public policy. By rewarding noncompliance, these decisions may well be the first step in what could lead ultimately to the destruction of the no-fault system. If a return is to be made to the fault system which preceded the existing law, it should be done through the conscious decision making process of the legislature as the voice of the people.

Accordingly, the purpose of this Act is to expressly restate, reiterate, and clarify the intent of the legislature in enacting sections 294-6(a) and 294-36(b), Hawaii Revised Statutes, concerning the barring of suits by uninsured motorists for injuries sustained in motor vehicle accidents was originally, and is now:

- (1) To prevent a person who is ineligible for no-fault benefits from bringing a civil action if the medical-rehabilitative limit is not reached within two years of the date of the motor vehicle accident;
- (2) To deter persons from driving without motor vehicle insurance coverage not only through criminal penalties, but through a limitation on the ability of the uninsured motorist to recover for injuries in tort which is more stringent than the limitations placed upon the law-abiding citizens who have obtained the insurance coverage required by law, and who are thus entitled to no-fault benefits.

SECTION 2. Chapter 294, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§294- Challenges to no-fault law; intervention by attorney general.

The attorney general shall intervene, at the request of the commissioner, in any case before any appellate court in this State in which the constitutionality or validity of this chapter or any part thereof is at issue, and may appeal to the United States supreme court, if necessary, to obtain a final determination of any case."

SECTION 3. Section 294, Hawaii Revised statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§294- Fee in lieu of fine; defense. (a) Any person bringing an action in tort under this chapter who was uninsured at the time of the accident shall pay a fee

of \$1,000 in lieu of any fine which could have been levied as a criminal penalty for failing to obtain the no-fault insurance coverage required by this chapter.

(b) The fee required under subsection (a) shall be paid by the person directly, or deducted from any settlement or verdict received, or both.

(c) No person shall be required to pay the fee in subsection (a) if the person can show proof of having been convicted in a prior criminal proceeding for failing to have no-fault insurance coverage on the date of the accident which is the subject of the tort action."

SECTION 4. Section 294-1, Hawaii Revised Statutes, is amended to read as follows:

"§294-1 Purpose. (a) The purpose of this chapter is to create a system of reparations for accidental harm and loss arising from motor vehicle accidents, to compensate these damages without regard to fault, and to limit tort liability for these accidents.

(b) This system of no-fault insurance can only be truly effective, however, if all drivers participate at least to the extent required by law. The public must realize, as the legislature does, that regardless of the extent to which the driving of motor vehicles is allowed it is a privilege, not a right, and that driving carries with it a serious social responsibility in the form of an ability to compensate adequately those who are injured as a result of motor vehicle accidents. Those persons who try to obtain this privilege without the concomitant responsibilities must be dealt with severely, and therefore this chapter treats uninsured drivers more severely than those who obtain the legally required no-fault insurance coverage. To the extent that this different treatment exists in the criminal or civil areas, it is done with the specific legislative intent of encouraging participation by all drivers in the no-fault insurance system which this chapter establishes. For those persons truly economically unable to afford insurance, the legislature has provided for them under the public assistance provisions of this chapter. Therefore, there is no valid reason for persons not to have insurance under this chapter."

SECTION 5. Section 294-6, Hawaii Revised Statutes, subsection (a), is reenacted and amended to read as follows:

"(a) Tort liability of the owner, operator, or user of an insured motor vehicle, or the operator or user of an uninsured motor vehicle who operates or uses such vehicle without reason to believe it to be an uninsured motor vehicle, with respect to accidental harm arising from motor vehicle accidents occurring in this State, is abolished, except as to the following persons or their personal representatives, or legal guardians, and in the following circumstances:

- (1) Death occurs to such person in such a motor vehicle accident; or injury occurs to such person which consists, in whole or in part, in a significant permanent loss of use of a part or function of the body; or injury occurs to such person which consists of a permanent and serious disfigurement which results in subjection of the injured person to mental or emotional suffering;

- (2) Injury occurs to such person in a motor vehicle accident in which the amount paid or accrued exceeds the medical-rehabilitative limit established in section 294-10(b) for expenses provided in section 294-2(10) (A) and (B);
- (3) Injury occurs to such person in such an accident and as a result of such injury the aggregate limit of no-fault benefits outlined in section 294-2(10) payable to such person are exhausted.

This section shall apply whether or not the injured person is entitled to receive no-fault benefits.

SECTION 6. Section 294-36, Hawaii Revised Statutes, subsection (b), is reenacted.

“(b) No suit arising out of a motor vehicle accident shall be brought in tort more than:

- (1) Two years after the date of the motor vehicle accident upon which the claim is based; or
- (2) Two years after the date of the last payment of no-fault or optional additional benefits; whichever is the later.”

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 8. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

Note

1. No bracketed material. Edited pursuant to HRS §23G-16.5.

ACT 246

H.B. NO. 1037

A Bill for an Act Relating To Annulment, Divorce, Separation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 580-10, Hawaii Revised Statutes, is amended to read as follows:

“§580-10 Restraining [order.] orders. (a) Whenever it is made to appear to the court after the filing of any complaint, that a party thereto may dispose or encumber property, or any part thereof, the court may issue a restraining order to prevent such disposal or encumbrance, and shall enjoy in respect thereof the powers pertaining to a court of equity.

(b) Whenever it is made to appear to the court after the filing of any complaint, that there are reasonable grounds to believe that a party thereto may inflict physical abuse upon, threaten by words or conduct, or harass the other party, the court may issue a restraining order to prevent such physical abuse, threats, or harassment, and shall enjoy in respect thereof the powers pertaining to a court of equity. Where necessary, the order may require either or both of the parties involved to leave the marital residence during the period of the order, and may also restrain the party to whom it is directed from contacting, threatening, or physically

abusing the children or other relative of the spouse who may be residing with that spouse at the time of the granting of the restraining order. The order may also restrain a party's agents, servants, employees, attorneys, or other persons in active concert or participation with the respective party.

- (1) Any wilful disobedience of a restraining order issued pursuant to this subsection shall be a misdemeanor under section 710-1077. All remedies for the enforcement of judgments, equitable as well as legal, including civil contempt, shall apply to this section.
- (2) Any law enforcement officer shall enforce a restraining order issued pursuant to this subsection, including lawfully ordering the restrained party to voluntarily leave for a three-hour cooling off period, or, with or without a warrant, where the law enforcement officer has reasonable grounds to believe that the restrained party has violated the restraining order, arresting the restrained party."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

ACT 247

H.B. NO. 1121

A Bill for an Act Relating to Hospital Administration in the County/State Hospital System.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 27-21.2, Hawaii Revised Statutes, is amended to read:

"§27-21.2 Transfer of personnel. [(a)] All employees of the several counties, the major portion of whose duties is in a functional area covered by section 27-21.1 shall be transferred to the department to which the function has been assigned.

No employee transferred by this part shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges as a consequence of this part.

The counties shall not be required to transfer funds to cover the vacation credits earned or accumulated by employees transferred under this part.

[(b) The appointment of the hospital administrator shall be made pursuant to chapters 76 and 77, on or after June 12, 1974. Hospital administrators appointed prior to June 12, 1974 shall receive permanent civil service status as provided in chapters 76 and 77 without the necessity of examination and shall be accorded all rights, benefits, and privileges attributable thereto. Such rights and privileges shall include seniority, prior service credit, vacation and sick leave credits, and other benefits and privileges accorded a hospital administrator with civil service status. Such hospital administrators shall not suffer a reduction in their pay rate.]"

SECTION 2. Chapter 27, Part III, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"§27- Administration of hospitals. (a) The appointment of hospital administrators and assistant administrators shall be made on an exempt basis by the director of health after June 30, 1983. Hospital administrators and assistant administrators appointed before July 1, 1983 shall maintain their permanent civil service status as provided in chapters 76 and 77.

(b) Notwithstanding any other law to the contrary, the director of health with the approval of the governor may contract for management services with private individuals or corporations solely for those services provided at Hilo hospital by hospital administrators and assistant administrators; provided that no contract under this subsection shall exceed a term of twenty-four months; and provided further that the term of any contract shall in any event expire before July 1, 1985. This subsection shall not supersede collective bargaining agreements, civil service rules and regulations, and existing statutes protecting employee rights; nor shall any employee be adversely affected by this subsection."

SECTION 3.¹ The department of health shall report to the legislature twenty days prior to the convening of the regular session of 1984 on the status of any contract under section 27- (b), Hawaii Revised Statutes, including findings and recommendations to improve hospital management.

SECTION 4.¹ Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 5.¹ This Act shall take effect on July 1, 1983.

(Approved June 9, 1983.)

Notes

1. Renumbered to correct obvious error.
2. Edited pursuant to HRS §23G-16.5.

ACT 248

H.B. NO. 1294

A Bill for an Act Relating to Spouse Abuse.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 709-906, Hawaii Revised Statutes, is amended to read as follows:

"§709-906 Spouse abuse penalty.¹ (1) It shall be unlawful for any person, singly or in concert, to physically abuse his or her spouse, or to refuse compliance with the lawful order of a police officer under subsection (3). The police, in investigating any complaint of spouse abuse may, upon request, transport the abused person to a hospital or safe shelter.

(2) Any police officer may, with or without a warrant, arrest a person if he has reasonable grounds to believe that the person is physically abusing, or has physically abused, his or her spouse and that the person arrested is guilty thereof.

(3) Any police officer may, with or without a warrant, take the following course of action where [he] the officer has reasonable grounds to believe that there was recent[,substantial,] physical abuse or harm inflicted by one spouse upon the other[:], whether or not such physical abuse or harm occurred in said police officer's presence:

- (a) [He] The police officer may make reasonable inquiry of the spouse upon whom [he] the officer believes recent[, substantial,] physical abuse or harm has been inflicted and other witnesses as there may be[, to ascertain whether there is probable danger of further substantial, physical harm being inflicted upon such injured spouse by the other spouse]; and
- (b) Where [he] the police officer has reasonable grounds to believe that there is [such] probable danger [he] of further physical abuse or harm being inflicted by one spouse upon the other, the police officer may lawfully order such other spouse to [voluntarily] leave the premises for a cooling off period of three hours; and
- (c) If such [other] spouse so ordered refuses to comply with [such reasonable request] the order to leave the premises or returns to the premises before the expiration of three hours, [he] such spouse may [place such other spouse] be placed under arrest for the purpose of preventing further physical abuse or harm to the [injured] victim spouse.

(4) Spouse abuse, and refusal to comply with the lawful order of a police officer under subsection (3) are misdemeanors.

(5) Any police officer who arrests a person pursuant to this section shall not be subject to any civil or criminal liability; provided that the police officer acts in good faith, upon reasonable belief, and does not exercise unreasonable force in effecting such arrest.

[(5)] (6) The spouse who has been physically abused or harmed by his or her spouse may petition the family court, with the assistance of the prosecuting attorney of the applicable county, for a [bench warrant] penal summons or arrest warrant to issue forthwith[.], or may file a criminal complaint through the prosecuting attorney of the applicable county.

[(6)] (7) The respondent shall be taken into custody and brought before the family court at the first possible opportunity. The court may then dismiss the petition or hold the respondent in custody, subject to bail. Where the petition is not dismissed, a hearing shall be set.

[(7)] If it is established beyond a reasonable doubt at the hearing that the respondent physically abused his or her spouse, then the court may find the spouse guilty of a misdemeanor.]

(8) This section shall not operate as a bar against prosecution under any section of the Hawaii Penal Code in lieu of prosecution for spouse abuse.

[(8)] (9) It shall be the duty of the [family court] prosecuting attorney of the applicable county to assist any [petitioner] victim under this section in the preparation of the [petition] penal summons or arrest warrant.

[(9)] (10) This section shall not preclude the physically abused or harmed spouse from pursuing any other remedy under law or in equity.

[(10)] (11) Upon dismissal of such person and discharge of the proceeding against him or her under this section, such person, if the offense is the only offense against the other spouse for a period of not less than one year, may apply for an order to expunge from all official records all recordation relating to his or her arrest, trial, finding of guilt, and dismissal and discharges pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him or her were discharged and that no other similar offenses were charged against him or her for a period of not less than one year, it shall enter such order."

SECTION 2. Section 709-907, Hawaii Revised Statutes, is repealed.

SECTION 3.² Statutory material to be repealed is bracketed. New material is underscored.³

SECTION 4.² This act shall take effect upon its approval.

(Approved June 9, 1983.)

Notes

1. Comma missing.
2. Renumbered to correct obvious error.
3. Edited pursuant to HRS §23G-16.5.

ACT 249

H.B. NO. 1363

A Bill for an Act Relating to District Courts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 604-5, Hawaii Revised Statutes, is amended to read as follows:

"§604-5 Civil jurisdiction. (a) Except as otherwise provided, the district courts shall have jurisdiction in all civil actions, where the debt, amount, or damages, or the value of the property claimed, does not exceed \$5,000, except in civil actions involving summary possession or ejectment, in which case, the district court shall have jurisdiction over any counterclaim otherwise properly brought before the district court by any defendant in such summary possession or ejectment action if [said] the counterclaim arises out of and refers to the land or premises, the possession of which is being sought, regardless of the value of the debt, amount, damages, or property claim contained in the counterclaim. Attorney's commissions of fees, including those stipulated in any note or contract sued on, interest, and costs, shall not be included in computing the jurisdictional amount. Subject to subsections (b) and (c), jurisdiction under this subsection shall be exclusive when the amount in controversy, so computed, does not exceed \$1,000.

(b) The district courts shall try and determine all actions without a jury, subject to appeal according to law. Whenever a civil matter is triable of right by a jury and trial by jury is demanded in the manner and within the time provided by the rules of court, the case shall be transferred to the circuit court. If the demand is made in the complaint and the matter is triable of right by a jury, the action may be commenced in the circuit court if the amount in controversy exceeds \$1,000.

[(c) Whenever a claim requires for its adjudication the presence of parties who cannot be served in the State, or cannot be served in a single circuit, the action may be commenced in the circuit court even though the amount in controversy does not exceed \$1,000, and if the action has been commenced in a district court it may be transferred to the circuit court.]

[(d)] (c) The district courts shall have jurisdiction in all statutory proceedings as conferred by law upon district courts.

[(e)] (d) The district courts shall not have cognizance of real actions, nor actions in which the title to real estate comes in question, nor actions for libel, slander, defamation of character, malicious prosecution, false imprisonment, breach of promise of marriage, or seduction; nor shall they have power to appoint referees in any cause."

SECTION 2. Section 604-7, Hawaii Revised Statutes, is amended to read as follows:

"§604-7 Powers; venue. (a) The district courts may:

- (1) Administer oaths;
- (2) Subpoena and compel the attendance of witnesses from any part of the State, and compel the production of books, papers, documents, or tangible things;
- (3) Enter final judgments; and alter or set aside any judgment within ten days following the date of its rendition or as provided by the rules of court;
- (4) Enforce judgments; and [punishment] punish contempts according to law;
- (5) Issue garnishee summons which may be served and shall be operative as to the garnishee throughout the [judicial circuit in which the district court issuing the same is situated, except that where the garnishee of a government beneficiary is the comptroller of the State, the garnishee summons may be served and shall be operative throughout the] State;
- (6) In a criminal case, alter, set aside, or suspend a sentence by way of mitigation or otherwise upon motion or plea of a defendant made within thirty days after imposition of the sentence.

Every witness duly subpoenaed as provided in this section shall be allowed the same attendance and mileage fees allowed witnesses subpoenaed before the circuit courts.

(b) Any document requiring the signature of a district judge, in any cause or proceeding whatsoever in a district court, may be signed without, as well as within, the boundaries of the circuit in which the court is situated.

(c) [Except as otherwise provided in this chapter or chapter 666, a] A summons or other writ issued by a district court may be served [only in the judicial circuit in which the district court is situated.] anywhere within the State. A summons or other writ issued by a district court may be served without the State in accordance with sections 634-24 and 634-25.

(d) Except as otherwise provided, civil actions shall be brought in the district court of the judicial circuit in which the defendant or a majority of the defendants reside or the claim for relief arose, unless there are parties whose

presence is required for adjudication of the claim who cannot be served in that circuit, in which case the action may be brought in the district court of any circuit in which all of the parties can be served. The venue may be changed or the case transferred as provided by section 604-7.3 and 604-7.4.

(e) The several district courts shall have power to make and award such judgments, decrees, orders, and mandates, issue such executions and other processes, and do such other acts and take such other steps as may be necessary to carry into full effect the powers which are or shall be given them by law or for the promotion of justice in matters pending before them."

SECTION 3. Section 633-27, Hawaii Revised Statutes, is amended by amending subsection (b) as follows:

"(b) Actions shall be commenced in the small claims division of the district court [or] of the judicial circuit in which the defendant or a majority of the defendants reside or the claim for relief arose, unless service cannot be made on all of the defendants in that circuit, in which case action may be commenced in any circuit in which all of the defendants can be served [.]; provided that actions arising under paragraph (2) of subsection (a) of this section shall be commenced in the circuit wherein the rental premises are situated."

SECTION 4. Section 633-28, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Actions shall be commenced and conducted in the small claims division of the district court as provided by the rules of court. The clerk of the court shall, at the request of an individual, prepare the papers required to be filed in an action in the court, but his services in the preparation of these papers shall not be available to a corporation, partnership, or association, or to any individual proprietorship. The mode of service shall be as provided by law or rule of court for cases in the district courts, or, as to actions arising under paragraphs (1) and (3) of section 633-27 (a), by registered mail or by certified mail with return receipt signed by the addressee showing delivery within the circuit[.], or, as to actions arising under paragraph (2) of section 633-27(a), by registered mail or by certified mail with return receipt signed by the addressee showing delivery at any place within or without the State. There shall be no appeal from a judgment of the small claims division, but the court, sitting as the small claims division, may alter or set aside any judgment as provided by the rules of court."

SECTION 5. Section 604-6.2, Hawaii Revised Statutes, is amended to read as follows:

"§604-6.2 Order to show cause. Upon the filing of a complaint with a copy of a lease or rental contract and an affidavit sworn to by the plaintiff or some competent affiant setting forth a statement of facts sufficient to show that the leased or rented personal property has been in the defendant's possession at least fourteen days after the termination of the lease or rental contract, either by passage of time or by reason of any default under the terms and conditions of the lease or rental contract, the court may issue an order directing the defendant to either return the leased or rented personal property to the plaintiff or to appear and show cause for the possession at such time as the court shall direct, but not later than ten days from the

date of service of the order to show cause. The order to show cause shall also provide that, if the leased or rented personal property is not returned to the plaintiff prior to the hearing, the defendant shall, if reasonably feasible, produce the property at the hearing. If, at the hearing, it is proved to the satisfaction of the court that the plaintiff is entitled to possession of the leased or rented personal property, it shall issue an order directed to the sheriff, or his deputy, commanding him to seize the personal property therein described and to deliver the same to the plaintiff or his agent. Service of the order to show cause shall be as provided by law or rule of court for cases in the district courts, or by registered mail or by certified mail with return receipt showing delivery within the [circuit.] State."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 7. The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1983, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made to section 604-5, Hawaii Revised Statutes, by any other Act enacted by this regular session of 1983.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

ACT 250

H.B. NO. 1399

A Bill for an Act Relating to Economic Development.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the Molokai community is confronted with serious economic problems. Hawaii's highest unemployment rate coupled with Hawaii's highest energy charges underscores the Molokai residents' burden.

The legislature finds that a program for enhancing Molokai's economy and keeping energy source dollars at home while reducing energy fuel costs and creating employment is a necessary goal for Molokai and for all Hawaii's islands.

The purpose of this Act is to better utilize Hawaii's available resources; to create employment opportunities for Hawaii's residents; and create new approaches to accelerate utilization of Molokai's available and affordable natural products.

SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated to read as follows:

"§171- Molokai forest lands, management program established. (a) There is established in the department of land and natural resources a Molokai forest lands management program to accelerate improved management of Molokai forest lands, including improved management in the following areas:

- (1) Internal access;
- (2) Scheduling of tree harvesting; and

- (3) Scheduling of new plantings and replantings by designated areas with priority to harvesting and replanting for sustained yields of fast growing species suitable for energy production know to thrive in this State. Such new planting and replanting shall not include the use of native forest and watershed land.

(b) The board of land and natural resources shall adopt rules under chapter 91 to implement this section."

SECTION 3. Section 171-113, Hawaii Revised Statutes, is amended to read as follows:

"§171-113 Definition of agricultural park. (a) For the purposes of this part, agricultural park [shall mean] means any agricultural or aquacultural complex which combines and concentrates in a common location agricultural or aquacultural activities, or both, for the purpose of production and distribution economies. Agricultural buildings, farm residences, and employee dwellings necessary to the production and distribution of agricultural or aquacultural commodities shall be considered part of the agricultural park.

(b) For the purposes of this section[, the term "aquaculture"]:

(1) "Agricultural activities" includes tree farming; and

(2) "Aquaculture" means the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment; provided that such farm or ranch is on or directly adjacent to land."

SECTION 4. Section 186-9, Hawaii Revised Statutes, is amended to read as follows:

"§186-9 Yield tax; returns; payments; collection. (a) Upon harvesting of the trees for commercial purposes, the owner [shall.] on forms provided by the department of taxation, shall file monthly returns showing the total stumpage value of the trees cut during the preceding month, together with such other information as may be required.

(b) There shall be annually assessed upon and collected from the owner or owners of the trees cut a yield tax equal to five per cent of the stumpage value of the merchantable trees cut[.], except for trees cut on lands subject to any state forest lands management program or cut in conjunction with any such program which shall be subject to a tax of one-half per cent from July 1, 1983 to June 30, 1985 and on July 1, 1985 which shall increase to two and one-half per cent. This tax shall be in lieu of all real property taxes and all general excise taxes set out in [chapter] chapters¹ 237 and 246. However, returns required hereunder shall be filed, taxes levied hereunder (including penalties and interest thereon) shall be enforced, paid, and collected, and records shall be kept by the taxpayer and shall be open to inspection, all in the same manner required of general excise taxes as provided in chapter 237, except that the stumpage value shall be the value upon which the yield tax shall be computed, levied, and collected.

(c) All trees cut on tree farm property shall be subject to the yield tax except trees cut by the owner for use in the harvesting of trees or for other use by the owner of the tree farm property; provided[, that if the trees are sold or conveyed to

the ownership or control of other persons or transferred onto other property, they shall be subject to the yield tax."

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$25,000, or so much thereof as may be necessary for fiscal year 1983-1984, for the establishment of a Molokai forest lands management program in the department of land and natural resources Molokai Program. A progress report shall be submitted to the legislature by the department of land and natural resources not later than thirty calendar days prior to the convening of the regular session of 1984.

SECTION 6. The sum appropriated shall be expended by the department of land and natural resources for the purpose of this Act.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 8. This Act shall take effect on July 1, 1983.

(Approved June 9, 1983.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

ACT 251

H.B. NO. 1438

A Bill for an Act Relating to Names.

Be It Enacted by the Legislature of the State of Hawaii:

"§574-5 [How changed.] **Change of name: procedure.** (a) It shall [not be lawful] be unlawful to change any name adopted or conferred under this chapter, except:

- (1) [upon] Upon an order of the lieutenant governor; [which order shall be founded upon a petition executed by the person desirous of changing his or her name, or, in the case of a minor, by the parents or by such parent who has custody of the minor, with the consent of the noncustodial parent, or by the guardian of the person of the minor, which petition shall be accompanied by the payment of filing costs in the amount of \$5, and shall be published once in a newspaper of general circulation in the State in such order mentioned, and the petitioner shall deposit in the office of the lieutenant governor an affidavit executed by an officer of the newspaper publishing the order, the affidavit to show that the order has been published as provided herein, and to have attached thereto a clipping showing the order as published, or
- (2) by the person desirous of changing his or her name, which petition shall be accompanied by the payment of filing costs in the amount of \$5 and an affidavit executed by a prosecuting attorney of this State, the affidavit to show that for the protection of the person desirous of

changing his or her name, the requirement of publication in a newspaper of general circulation in the State, the recordation in the bureau of conveyances, and the report to the registrar of births of such order shall not be necessary, or

- (3) by any court or judge of competent jurisdiction, embodying in a decree of adoption a provision for change of name of the person adopted, or embodying in a decree of divorce a provision that either party may upon the divorce resume the surname used by him or by her prior to the marriage or a surname declared and used during any prior marriage,] or

- (2) By a final order, decree, or judgment of family court issued as follows:

- (A) When in an adoption proceeding a change of name of the person to be adopted is requested and the court includes the change of name in the adoption decree; or

- (B) When in a divorce proceeding either party to the proceeding requests to resume the surname used by him or by her prior to the marriage or a surname declared and used during any prior marriage and the court includes the change of name in the divorce decree;

- (3) Upon marriage pursuant to section 574-1; or

- (4) [upon] Upon legitimation pursuant to section 338-21.

(b) The order of change of name by the lieutenant governor shall be founded upon a notarized petition. The petition shall be executed by the person desirous of making the change of name. In the case of a minor, the petition shall be executed:

- (1) By the parents;

- (2) By the parent who has custody of the minor with the notarized consent of the noncustodial parent; or

- (3) By the guardian of the person of the minor.

- (c) The filing fee of \$5 shall accompany the petition when submitted.

(d) The order of the lieutenant governor shall be published once in a newspaper of general circulation in the State as mentioned in the order, and the petitioner shall deposit at the office of the lieutenant governor an affidavit executed by an officer of the newspaper publishing the order showing that the order has been published therein. The affidavit shall have attached to it a clipping showing the order as published.

(e) When the petition is accompanied by an affidavit executed by a prosecuting attorney of this State, the affidavit shall show that for the protection of the person desirous of making a change of name, the following actions shall not be necessary:

- (1) Publication in a newspaper of general circulation in the State;

- (2) Recordation in the bureau of conveyances; and

- (3) Reporting to the registrar of births.

The petition, affidavit, and order shall be kept confidential.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

ACT 252

H.B. NO. 1583

A Bill for an Act Relating to the Department of Social Services and Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-59, Hawaii Revised Statutes, is amended to read:

"§346-59 Medical care payments. (a) The department shall adopt rules under chapter 91 concerning payment to providers of medical care. The department shall determine the rates of payment due to all providers of medical care, and pay such amounts in accordance with the requirements of the appropriations act and the Social Security Act, as amended.

(b) Rates of payment to providers of medical care who are individual practitioners, including doctors of medicine, dentistry, podiatry, osteopathy, optometry, and other individuals providing services [which the department chooses to include in its scope of medical care services], shall be based upon the profile, or adjusted profile, of usual and customary fees selected by the legislature as the basis of the appropriation for such care for any fiscal year. The amounts paid shall not exceed the maximum¹ permitted to be paid individual practitioners or other individuals under federal [rules promulgated pursuant to the Social Security Act, as amended.] law and regulation and shall not exceed the reasonable charge under the medicare program, based on the same profile base year selected by the legislature for the medicaid profiles, the state limits as provided in the appropriation act, and the provider's billed amount.

The appropriation act shall indicate the profile used as the basis for the appropriation of each fiscal year. If that profile has been adjusted by the legislature, the legislature shall specify the extent of the adjustment in the appropriation act.

(c) In establishing the payment rates for other noninstitutional items and services, the rates shall not exceed the current medicare reasonable charge, the state limits as provided in the appropriation act, the rate determined by the department, and the provider's billed amount.

(d) Notwithstanding any other provisions of this chapter, the department may establish a demonstration project which guarantees a six-month enrollment in a health maintenance organization or prepaid health plan for those AFDC families voluntarily agree to participate in the project.

[(c)] (e) Payments to health maintenance organizations with which the department contracts for the provision of medical care to eligible public assistance recipients may be made on a prepaid basis. The rate of payment per participating recipient shall be fixed by contract, as determined by the department and the health maintenance organization, but shall not exceed the maximum¹ permitted by federal rules and shall be less than the federal maximum when funds appropriated by the legislature for such contracts require a lesser rate. For purposes of this subsection, "health maintenance organizations" means entities designated as such by the Department of Health[, Education, and Welfare.] and Human Services or other prepaid health plans.

[(d)] (f) The department shall prepare each biennial budget request for a medical care appropriation based upon the most current usual and customary fee profile available at the time the request is prepared.

The director shall submit a report to the legislature on or before January 1 of each year indicating an estimate of the amount of money required to be appropriated to pay providers at the maximum rates permitted by federal and state rules in the upcoming fiscal year."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

Note

1. "s" missing.

ACT 253

H.B. NO. 1602

A Bill for an Act Relating to Industrial Loan Companies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 408-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Every industrial loan company, in addition to the powers exercisable by or conferred upon it under or by the general corporation law of the State, or by any other provision of this chapter, shall possess and may exercise the following powers:

- (1) To borrow money upon its own secured or unsecured notes;
- (2) To lend money upon individual credit or upon the security of comakers, personal endorsement, or the pledge or mortgage of real or personal property or choses in action, or upon any combination of such credit and security, and to contract for such interest, discount, or other consideration as is permitted by this chapter, and to sell or broker, loans or contracts, in whole or in part, to other lenders, and charge or retain a fee for the originating, selling, brokering, or servicing of such loans or contracts;
- (3) To discount, purchase, or otherwise acquire notes, installment contracts, warehouse receipts, or other choses in action, notwithstanding section 416-31 to the contrary;
- (4) To establish branches within the State with the prior written approval of the bank examiner;
- (5) To finance purchases for others by taking title to merchandise temporarily and only for the purpose of securing loans entered into for the purchases; [and]
- (6) To issue and sell certificates for the payment of money at any time, either fixed or uncertain, including without limitation evidences of

thrift accounts as defined in chapter 408A, and to receive amounts invested therein in installments or otherwise, with or without allowance of interest on such investments. A company may, but need not, require an investor to subscribe to a certain amount of investment in such certificates, subject to minimum or maximum investments required by law or rules. Nothing herein shall be construed to authorize any industrial loan company to receive deposits or to create any liability due on demand[.]; and

- (7) To become the legal or beneficial owner of tangible personal property and other tangible property for the purpose of leasing such property, to obtain an assignment of a lessor's interest in a lease of such property, and to incur obligations incidental to its position as the legal or beneficial owner and lessor of the leased property."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

ACT 254

H.B. NO. 1621

A Bill for an Act Relating to Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 2, Act 283, Session Laws of Hawaii 1982, is amended to read:

"SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$400,000, or so much thereof as may be necessary for fiscal year 1982-1983, [to be paid into the state mortgage guarantee fund created in section 359G-12 (k), Hawaii Revised Statutes. The sum appropriated by this Act shall be expended by the Hawaii housing authority for the purposes of the fund.], to be expended by the Hawaii housing authority for the following purposes:

- (1) \$255,000 to be paid into the state mortgage guarantee fund created by section 359G-12(k), Hawaii Revised Statutes;
- (2) \$70,000 to develop and assist in the development of for sale and rental housing for low- and moderate-income families by the nonprofit Pacific Housing Assistance Corporation; provided that the Pacific Housing Assistance Corporation shall submit a report to the legislature on the actual and planned use of funds appropriated by this Act not less than ten days prior to the convening of the Regular Session of 1984;
- (3) \$50,000 for a study to recommend changes to zoning and subdivision regulations, housing statutes, ordinances, building codes, and the residential landlord-tenant code at the state or county level of regulation to promote increased and more flexible provision of housing units to low- and moderate-income and gap group families; provided that copies of

the study shall be transmitted to the legislature upon completion of the study; and

- (4) \$25,000 to evaluate the problems and benefits of increasing or maintaining the supply of housing units through tax policy changes; provided that copies of the evaluation shall be transmitted to the legislature upon completion of the evaluation."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1983.)

ACT 255

S.B. NO. 343

A Bill for an Act Relating to the Compensation of Public Officers and Employees.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 77-13.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

"(c) Each exclusive representative may exercise the option to negotiate a model conversion plan regarding a reduction in the number of steps within the salary ranges under section 77-5 or 77-13, as applicable, for positions within its appropriate bargaining unit, by notifying the appropriate employers of its intent in writing. The employers and the exclusive representative shall meet for the purpose of developing a mutually agreeable conversion plan which meets the requirements of subsection (d). Any such plan mutually agreed upon shall be reduced to writing and signed by the parties before [January 1, 1983.] December 31, 1983. The plan shall be binding upon the parties, except that all costs relative to the conversion shall be subject to approval and appropriations by the appropriate legislative bodies, along with negotiated pay increases and other cost items, as required under section 89-10(b). In the absence of a mutually agreed upon model conversion plan before [January 1, 1983] December 31, 1983 for any particular bargaining unit, wage negotiations for such unit shall be based on the existing salary ranges and steps as provided in section 77-5 or 77-13, as applicable."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act, upon its approval, shall take effect retroactive to January 1, 1983.

(Approved June 11, 1983.)

ACT 256

H.B. NO. 182

A Bill for an Act Relating to the School Priority Fund.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 296D-4, Hawaii Revised Statutes, is amended to read as follows:

"**[[§296D-4]] Use of resources by schools.** School principals shall consult with teachers, [and to the extent practicable, with] parents, and students[,] to solicit their advice on the use of moneys and positions. Prior to expending moneys and implementing position assignments, principals shall submit plans for the use of the moneys and positions to their district superintendents who shall review the plans for conformance with departmental policies and rules. Upon approval of the plans, moneys may be expended by the principals for supplies, textbooks, equipment, and services. Positions may be used to meet the unique needs of the schools."

SECTION 2. Section 296D-5, Hawaii Revised Statutes, is amended to read as follows:

"**[[§296D-5]] Departmental controls.** The superintendent shall develop and implement appropriate planning procedures and follow-up accountability reports, without regard to chapter 91, to ensure sound planning, control, and accountability in the use of the school priority fund. The procedures and reports, however, shall recognize the need for providing the schools latitude and discretion to determine their needs and priorities, and shall avoid imposing undue amounts of paperwork and administrative burdens on the schools.

The department shall submit an annual report to the legislature which shall include but not be limited to an accounting of how funds were used by the schools."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 11, 1983.)

ACT 257

H.B. NO. 208

A Bill for an Act Relating to Grades and Standards.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. A system of grades and standards assists in the orderly marketing of agricultural commodities and assures consumers that they are getting what they pay for. For ease of enforcement the definition of commodities and penalty structure should be standardized.

Various parts of Chapter 147 define agricultural products subject to grades and standards differently. Some refer to fruits, vegetables, and nuts, while others refer to fruits vegetables, and coffee. The Attorney General's office has interpreted fruits to include nuts but has made no interpretation on coffee. Definitions should be standardized to include fruits, vegetables, nuts, and coffee.

Under Chapter 147 the procedure for imposing fines requires criminal or civil action. The prosecutor's office has not been able to handle requests for assistance in prosecuting violators due to a heavy load of cases. The lack of ability

to impose administrative penalties in enforcing grades and standards greatly reduces the ability of the department of agriculture to achieve compliance with the law. The level of fines contained within these statutes has been in effect for several decades and needs to be revised to be current with the overall structure of fines.

The license fee for commercial exporters of flowers and foliage is not in line with similar license fees for dealers in farm produce. Granting the department of agriculture the ability to set this license fee through rule would assure equity.

SECTION 2. Section 147-1, Hawaii Revised Statutes, is amended to read as follows:

“§147-1 Definitions. As used in this part, the term:

- (1) “Department” means the department of agriculture;
- (2) “Producer” means any person engaged within the State in the growing or production for market of any agricultural commodity, or any cooperative association of such persons;
- (3) “Agricultural commodity” means fresh fruits and fresh vegetables of every kind and character, whether or not frozen or packed in ice, whether produced in the State or imported, nuts, and coffee, whether cherry, parchment, or green beans which have been produced in the State;
- (4) “Produce dealer” means any person other than a producer who is engaged in the selling, marketing, or distributing of any agricultural commodity or in the business of soliciting or negotiating the sale of any farm product, but does not include any person selling solely at retail. For the purposes of this definition, sales to the United States army or navy, restaurants, hotels, hospitals, or other institutions are not retail sales;
- (5) “Offgrade” is a descriptive term applicable to agricultural commodities which have a market value, and designates a quality lower than the lowest applicable in Hawaii, other states or the United States grade for each agricultural commodity;
- (6) “Consumer” means any person or firm purchasing agricultural commodities for human consumption or animal consumption.”

SECTION 3. Section 147-2, Hawaii Revised Statutes, is amended to read as follows:

“§147-2 Duties of department; violations; proceedings; penalties. The department [of agriculture] shall administer and enforce this part and [any] rules [or regulations made] adopted by the department pursuant thereto.

The following penalties, remedies, procedures, and actions shall apply in instances of violations and complaints of violations of this part, or of the rules [and regulations issued] adopted by the department under the authority of this part:

- (1) [Civil action. Any person who violates any provisions of this part or any rule or regulation issued thereunder shall be liable civilly in an action brought by the department for a penalty in an amount not to exceed a sum of \$500 for each and every violation. Any money

recovered by the department under this provision shall be deposited with the state director of finance to the credit of the general fund;]

Administrative penalty. The department may, after notice and hearing, fine any person who violates this part or any rule adopted under this part, not more than \$1,000 for each separate offense. Each day or instance of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action;

- (2) Nuisance may be enjoined, abated. Violation of this part or any [regulation issued] rule adopted thereunder is declared a public nuisance and may be enjoined or abated as such in a suit filed and prosecuted in the circuit court by the department or the attorney general. The several circuit courts are hereby vested with jurisdiction to prevent and restrain violation of this part or of any [regulation] rule effective thereunder;
- (3) [[Fine.] Every person who violates any provision of this part or of any rule or regulation issued thereunder shall be fined not less than \$50 nor more than \$500. Each day during which any of the above violations referred to continue shall constitute a separate offense;]

Misdemeanor. Any person who violates this part or any rule adopted under this part shall be fined not more than \$1,000 or imprisoned not more than one year, or both;

- [(4) Complaints, hearings. Upon the filing of a written verified complaint charging violation of any provision of this part or of any rule or regulation issued thereunder and prior to institution of any court proceedings authorized by this section, the department may refer the matter to the attorney general or any public prosecutor for action pursuant to the provisions of this part or call a hearing to consider the charges set forth in such complaint. In such case the department shall cause a copy of the complaint, together with a notice of the time and place of hearing of the complaint, to be served on the person complained against, to be known as the respondent, either in person or by mail. The service shall be made at least ten days before the time set for the hearing. The hearing shall be held in the city or town in which is situated the principal place of business of the respondent, or in which the violation complained of is alleged to have occurred, or in the nearest office of the department, at the discretion of the department. At the time and place designated for the hearing the department shall hear the parties to the complaint and shall make findings based upon the facts established at the hearing. If the department finds that no violation has occurred it shall forthwith dismiss the complaint and notify the parties to the complaint. If the department finds a violation has occurred it shall so enter its findings and notify the parties to the complaint. Should the respondent thereafter fail, neglect, or refuse to desist from the violation, the department may thereupon bring, or

cause to be brought, action in a circuit court for the enforcement of this part;]

- [(5)] (4) The penalties and remedies prescribed in this section with respect to any violation mentioned in this section shall be concurrent and alternative and neither singly nor combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and all other civil, criminal, or alternative rights, remedies, or penalties provided or allowed by law with respect to any such violation."

SECTION 4. Section 147-6, Hawaii Revised Statutes, is amended to read as follows:

"§147-6 Unlawful to trade in commodities without specifying grade; penalty. It shall be unlawful for a person to sell, offer for sale, or expose for sale to a consumer, any agricultural commodity intended for human consumption, without specifying by suitable sign or label, the exact grade or "offgrade" designation applicable to agricultural commodities offered for sale in bulk displays, or to sell, offer, or expose for sale agricultural commodities which are packaged without designating on the packages also the net weight or count in words and figures visible to the consumer. [Any person who is convicted of any violation of this section shall be punished by a fine of not more than \$1000 or confinement for not more than three months, or both. Violations of this section shall also be subject to sections 147-25 (b) and (c).]"

SECTION 5. Chapter 147, Part II, Hawaii Revised Statutes, is amended to read as follows:

**"PART II. EXPORTS: FRUITS, VEGETABLES,
[AND] NUTS, AND COFFEE**

§147-21 Definitions. For the purposes of this part, unless otherwise required by the context:

"Agricultural commodity" means fruits, vegetables, nuts and coffee;

"Department" means the department of agriculture;

"Commercial exporter" means any person who is engaged in the business of exporting fresh or processed [fruits, vegetables, and nuts] agricultural commodities to points outside the State;

"Processed" means canned, preserved, frozen, pickled, dried, or otherwise prepared with or without any ingredients added thereto;

"Style" means the kind or class of any particular processed [fruit, vegetable, and nut] agricultural commodity as determined by its physical characteristics, usually the size and shape thereof.

§147-22 Rules [and regulations]. The department [of agriculture] shall have the necessary powers to carry out and effectuate the purposes of this part, including the following:

To establish, prescribe, modify, or alter, by rules [and regulations], which shall have the force and effect of law, such grades, standards, and classifications as shall be the minimum requirements for fresh and processed [fruits, vegetables, and nuts] agricultural commodities destined for shipment by commercial exporters to

points outside the State; provided, that the provisions of such grades, standards, and classifications shall not excuse failure to comply with the provisions of the federal and state food, drug, and cosmetic acts. The department in establishing such rules [and regulations] shall consult with appropriate state and federal agencies and with any appropriate industry or trade organization. The standards, grades, and classification so established shall be on the basis of what the department may deem best suited to the agricultural, horticultural, or other interests of the State, provided, that the minimum requirements for the grades, standards and classifications so established for processed [fruits, vegetables, and nuts] agricultural commodities shall not be higher than that of any standardized product which is sanitary and which has been demonstrated to be a commercially-acceptable product of the class to which it belongs and for which a market has been established; provided, further, that different minimum requirements may be applied to different styles of processed [fruits, vegetables, and nuts] agricultural commodities; and provided, further, that any processed pineapple product, in which the fruit ingredient is a least ninety-five per cent pineapple in compliance with the provisions of the federal and state food, drug, and cosmetic acts, may be exported from the State.

§147-23 Prohibited acts. No commercial exporter shall ship any fresh or processed [fruits, vegetables, and nuts] agricultural commodities to points outside the State unless such products meet the quality and condition requirements of the rules [and regulations promulgated] adopted under this part.

§147-24 Inspection. The board of agriculture may designate any employee or agent of the department to inspect or classify fresh and processed [fruits, vegetables, and nuts] agricultural commodities.

§147-25 Duties of department; violations; proceedings; penalties. (a) The department [of agriculture] shall administer and enforce the provisions of this part and [any] rules [or regulations promulgated] adopted thereunder.

(b) Civil action. Any person who violates this part or any rule or regulation promulgated thereunder shall be liable for damages in civil action brought by the department in the name of the State for a penalty in an amount not to exceed \$500 for each and every violation. Any money recovered by the department under this provision shall be deposited in the general fund of the State.

(c) Nuisance may be enjoined, abated. Violation of this part or of any regulation promulgated thereunder is declared a public nuisance and may be enjoined or abated as such in a suit filed and prosecuted in the circuit wherein such public nuisance is committed by the department or the attorney general. The several circuit courts are hereby vested with jurisdiction to prevent and restrain violation of this part or of any regulation effected thereunder.

(d) [Fine.] Every person who violates this part or any rule or regulation promulgated thereunder shall be fined not less than \$50 nor more than \$500. Each day during which any of the above violations occur shall constitute a separate offense.

(e) Penalties concurrent and alternative. The penalties and remedies prescribed in this section with respect to any violation mentioned in this section shall be concurrent and alternative and neither singly nor combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and

all other civil, criminal or alternative rights, remedies, or penalties provided or allowed by law with respect to any violations.]

(b) In respect of violations or complaints of violation of this part or rules adopted by the department pursuant thereto, the department shall have all the rights and powers conferred upon it by section 147-2, with respect to violations or complaints of violation of part I or rules adopted by the department pursuant thereto; and all remedies, procedures, or actions contained in section 147-2 for violations or complaints of violation of part I or rules adopted by the department thereunder, shall be severally and respectively conferred, granted, practiced, and exercised for violations or complaints of violation of the provisions of this part or rules adopted by the department pursuant thereto."

SECTION 6. Section 147-36, Hawaii Revised Statutes, is amended to read as follows:

"§147-36 Licenses. No person shall act as a commercial exporter without having obtained a license as provided hereunder. Every person before acting as a commercial exporter as herein defined shall file an application with the department [of agriculture] for a license to transact the business of a commercial exporter and the application shall be accompanied by the license fee [herein provided.] as specified by the rules of the department.

The application shall in each case state the class or classes of flowers and foliage the applicant proposes to handle, the full name and address of the person or firm applying for the license, and if the applicant is a firm, exchange, association, or corporation, the full name of each member of the firm, or the names of the officers of the exchange, association, or corporation. The application shall further state the principal business address of the applicant in the State and elsewhere and the names of the persons authorized to receive and accept services of summons and legal notices of all kinds for the applicant. The applicant shall further satisfy the department of his or its good character, responsibility and good faith in seeking to carry on the business stated in the application.

[For filing the application herein described, each applicant shall pay a license fee of \$10 for each year.]

Should any commercial exporter refuse, fail, or neglect to apply for the renewal of a preexisting license within thirty days after the expiration thereof, a penalty of forty per cent shall apply to and be added to the [original fee set forth above,] license fee, and shall be paid by the applicant before the renewal license may be issued. All licenses expire one year from the date of the issuance of the license."

SECTION 7. Section 147-37, Hawaii Revised Statutes, is amended to read as follows:

"§147-37 Duties of department; violations; proceedings; penalties. (a) It shall be the duty of the department [of agriculture] to administer and enforce the provisions of this part and [any] rules [or regulations] promulgated thereunder.

(b) Civil action. Any person who violates any provision of this part or any rule or regulation promulgated thereunder shall be liable for damages in civil action brought by the department in the name of the State for a penalty in an amount not to

exceed the sum of \$500 for each and every violation. Any money recovered by the department under this provision shall be deposited with the state director of finance to the credit of the general fund.

(c) Nuisance may be enjoined, abated. Violation of this part or of any regulation promulgated thereunder is declared a public nuisance and may be enjoined or abated as such by the department or the attorney general in a suit filed and prosecuted in the circuit wherein the public nuisance is committed. The several circuit courts are hereby vested with jurisdiction to prevent and restrain violation of this part or of any regulation effected thereunder.

(d) [Fine.] Every person who violates any provision of this part or of any rule or regulation promulgated thereunder shall be punished by a fine of not less than \$50, nor more than \$500. Each day during which any of the above violations occur shall constitute a separate offense.

(e) Penalties concurrent and alternative. The penalties and remedies prescribed in this section with respect to any violation mentioned in this section shall be concurrent and alternative and neither singly nor combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and all other civil, criminal or alternative rights, remedies or penalties provided or allowed by law with respect to any violations.]

(b) In respect of violations or complaints of violation of this part or rules adopted by the department pursuant thereto, the department shall have all the rights and powers conferred upon it by section 147-2, with respect to violations or complaints of violation of part I or rules adopted by the department pursuant thereto; and all remedies, procedures, or actions contained in section 147-2 for violations or complaints of violation of part I or rules adopted by the department thereunder, shall be severally and respectively conferred, granted, practiced, and exercised for violations or complaints of violation of the provisions of this part or rules adopted by the department pursuant thereto.

SECTION 8. Section 147-51, Hawaii Revised Statutes, is amended to read as follows:

"§147-51 Definitions. For the purpose of this part, unless otherwise required by the context:

"Department" means the department of agriculture;

"Process" means to can, preserve, freeze, pickle, dry, or otherwise prepare, with or without any added ingredients;

"Food product" or "product" means any and all fruits, vegetables, [and] nuts, and coffee, or part or parts thereof, produced and processed within the State, and also any and all fish and fishery products processed within the State."

SECTION 9. Section 147-62, Hawaii Revised Statutes, is amended to read as follows:

"§147-62 Misrepresentation as to grade, etc., penalties. (a) If any quantity of any food product has been inspected and a certificate issued hereunder showing the grade, classification, quality, or condition thereof, no person shall represent that the grade, classification, quality, or condition of the product at the time and place of the inspection was other than as shown by the certificate.

(b) If any lot or lots of any food product has been inspected and a certificate issued hereunder showing the grade, classification, quality, or condition of the lot or lots, no person shall represent that the certificate is descriptive of or relates to any other lot or lots of food products not inspected hereunder and not covered by the certificate.

(c) Whenever any standard for the grading or classification of any food product becomes effective under this part, and any word or words, figure, or mark or marks, or letter, has been established and adopted by the department [of agriculture] to indicate the grade or quality of the food product contained in any package or container, it shall be unlawful for any person to use any of the words, letters, figures, or marks, in connection with any package or container, to represent the grade or quality of the food product contained therein, to be sold or offered for sale, if the product does not meet the requirements of the grade indicated by the marking.

(d) Whenever any standard for the grading or classification of any food product becomes effective under this part, and any label has been established and adopted by the department to indicate the grade, quality or condition of the food product contained in any package or container, it shall be unlawful for any person to use any label, in connection with any package or container, unless authorized so to use it by, or under the rules [and regulations] prescribed by, the department.

[(e) Any person violating this section shall be fined not more than \$500 or imprisoned not more than six months or both.]”

SECTION 10. Section 147-63, Hawaii Revised Statutes, is amended to read as follows:

“§147-63 Remedies, extension of other powers. In respect of violations or complaints of violation of this part or [any] rules [or regulations made] adopted by the department [of agriculture] pursuant thereto, the department shall have all the rights and powers conferred upon it by section 147-2, with respect to violations or complaints of violation of part I or [any] rules [or regulations made] adopted by the department pursuant thereto; and all remedies, procedures, or actions contained in section 147-2[, except criminal penalties,] for violations or complaints of violation of part I or [any] rules [or regulations made] adopted by the [board] department thereunder, shall be severally and respectively conferred, granted, practiced, and exercised for violations or complaints of violation of the provisions of this part or [any] rules [or regulations made] adopted by the department pursuant thereto.”

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 12. This Act shall take effect upon its approval, except that the license fee for commercial exporters of flowers and foliage shall remain \$10 for 180 days after approval or until the fee can be set by rules of the department of agriculture, whichever comes first.

(Approved June 11, 1983.)

A Bill for an Act Relating to Regulation of Dealers in Farm Produce.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Agriculture is one of Hawaii's important industries. The local farmer must continue to profit from his enterprise if agriculture is to maintain its position in the State's economy. The farmer is at the mercy of the dealers for payment for their highly perishable products. Chapter 145, Hawaii Revised Statutes, is intended to assure fair and prompt payment for farm products.

The enforcement of this chapter has been hampered due to lack of administrative penalties and the reluctance of the public prosecutor to prosecute violators. Furthermore, the commission merchant surety bond requirement is set by statute at a level too low to offer adequate protection to claimants. Strengthening the law in these areas would improve its enforceability and offer increased protection for Hawaii's farmers.

The penalty clause for late renewal of license is not applied to all classes of business and should be amended for equity in applying the law.

SECTION 2. Section 145-2, Hawaii Revised Statutes, is amended to read as follows:

"§145-2 Licenses. No person shall act as commission merchant, dealer, broker, agent, processor, or retail merchant without having obtained a license as prescribed by rules [and regulations] of the department [of agriculture].

In addition to the general requirements applicable to all classes of applications as prescribed by [regulation,] rule, the following requirements shall apply to each class of application noted:

- (1) Commission merchants: Each application shall include a schedule of commissions and charges for services, and the designated commissions and charges shall not be changed or varied for the license period except by written contract between the parties. In addition, each application shall be accompanied by the surety bond required by section 145-4.
- (2) Agents: Each application shall include the name and address of each commission merchant, dealer, or broker represented or sought to be represented by the agent, the written indorsement or nomination of the commission merchant, dealer, or broker, and such additional information as the department may consider proper or necessary. The department shall thereupon issue to the applicant a license entitling the applicant to conduct the business described in the application at the place named in the application for a year from the date thereof, or until the same is revoked for cause; provided, that the license of an agent shall expire upon the date of expiration of the license of the principal for whom the agent acts. The department may also issue to each agent a card or cards which shall bear the signature of the agent, separate cards being required for each principal. Any agent shall show the card or cards upon the request of any interested person. Any agent who

displays a void or expired license card shall be punished as provided in section 145-12.

Fraud or misrepresentation in making any application shall ipso facto work a revocation of any license granted thereunder. All indicia of the possession of a license shall be at all times the property of the State and each licensee shall be entitled to the possession thereof only for the duration of the license.

For filing the application for license, each applicant shall pay a fee as prescribed by the department.

Should any commission merchant, dealer, broker, [or] processor, or retail merchant refuse, fail, or neglect to apply for the renewal of a preexisting license within thirty days after the expiration thereof, a penalty of forty per cent shall apply to and be added to the original fee as prescribed by the department, and shall be paid by the applicant before the renewal license may be issued.

Any person who has applied for and obtained a license within the classification of commission merchant, in the manner and upon payment of the fee set forth, may apply for and secure a license in the other classifications without payment of further fee, and upon further complying with those provisions of this part regulating the licensing of the other particular classification involved. All licenses held by any licensee under this section shall automatically expire on the expiration date for the particular license for which the license fee was paid."

SECTION 3. Section 145-4, Hawaii Revised Statutes, is amended to read as follows:

"§145-4 Bonding of commission merchant. Before any license is issued to any commission merchant, the applicant shall execute and deliver to the department [of agriculture] a surety bond in the [sum of \$3,000] amount specified in the rules of the department, but not to exceed \$10,000, executed by the applicant as principal and by a surety company qualified and authorized to do business in the State as surety. The bond shall be conditioned upon compliance with this chapter and upon the faithful and honest handling of farm products in accordance with this chapter. The bond shall be to the State in favor of every producer-consignor of farm products grown within the State. Any producer-consignor of farm products grown within the State claiming to be injured by the fraud, deceit, or wilful negligence of any commission merchant may bring action upon the bond against both principal and surety in any court of competent jurisdiction to recover the damages caused by such fraud, deceit, or wilful negligence, or the failure to comply with this chapter. In case of failure by a commission merchant to pay producer-consignor creditors for farm products received from the consignors to be sold, the department shall proceed forthwith to ascertain the names and addresses of all consignor creditors of the commission merchant, together with the amounts due and owing to them and each of them by the commission merchant, and shall request all the consignor creditors to file a verified statement of their respective claims with the department. The request shall be addressed to each known consignor creditor at his last known address. If a consignor creditor so addressed fails, refuses, or neglects to file in the office of the department his verified claim as requested by the department within ninety days from the date of such request, the department shall thereupon be relieved of further duty or action hereunder on behalf of the consignor creditor.

Upon ascertaining all claims and statements in the manner herein set forth, the department may then make demand upon the bond on behalf of those claimants whose statements have been filed, and shall have the power to settle or compromise the claims with the surety company on the bond, and is empowered in such cases to execute and deliver a release and discharge of the bond involved. Upon the refusal of the surety company to pay demand, the department shall thereupon bring an action on the bond in behalf of the consignor creditors. Upon any action being commenced on the bond, the department may require the filing of a new bond and immediately upon the recovery in any action on the bond such commission merchant shall file a new bond and upon failure to file the same within ten days in either case, such failure shall constitute ground for the suspension or revocation of his license."

SECTION 4. Section 145-10, Hawaii Revised Statutes, is amended to read as follows:

"§145-10 [Revocation or suspension of license.] Administrative penalties. (a) The department [of agriculture] may, after notice and hearing, revoke or suspend any license issued under this chapter for any violation of this chapter.

(b) The department may, after notice and hearing, fine any person who violates this chapter or any rule adopted under this chapter, not more than \$5,000 for each separate offense. Each day or instance of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval; except that the level of the surety bond for commission merchants in Section 145-4, Hawaii Revised Statutes, shall remain at \$3,000 for 180 days after approval or until a new level can be established by rules of the department of agriculture, whichever comes first.

(Approved June 11, 1983.)

A Bill for an Act Relating to Abolishment of the Premarital Examination for Syphilis.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 572-7, Hawaii Revised Statutes, is amended to read as follows:

"§572-7 Premarital examination requirement. (a) [Except as in this section otherwise provided, no application for a marriage license shall be accepted by a marriage license agent unless accompanied by a physician's statement, signed by a licensed physician or by a commissioned medical officer of the United States Air Force, Army, Navy, or Public Health Service, that the applicant for the license

has on a day named in the statement, which day is within a period of thirty days immediately prior to the first day on which the license may be issued, been given an examination for syphilis, including a serological test for syphilis and immunity against rubella, and is not, in the opinion of the physician, infected with syphilis or, if so infected, is not, in his opinion, in a state of syphilis which is, or may become, communicable and is or is not immune, in the physician's opinion, to rubella and that the applicant has been informed of the adverse effects of rubella on the fetus;] Except as otherwise provided in this section, no application for a marriage license shall be accepted by a marriage license agent unless the female provides a physician's statement signed by a licensed physician or by a commissioned medical officer of the United States Air Force, Army, Navy or Public Health Service verifying that the female has been given a serological test for immunity against rubella and has been informed of the adverse affects of rubella on the fetus; provided that no examination for immunity to rubella is required of the [applicant] female who provides proof of immunization with live rubella virus vaccine, or who, by reason of [sex,] age[,] or other medically determined condition is not and will never be physically able to conceive a child.

(b) On the joint petition under oath of both parties desiring a marriage license and for sufficient cause satisfactorily proved to him by affidavit or otherwise, a circuit judge, if satisfied that the public health and welfare will not be injuriously affected thereby, may in his discretion make an order dispensing with compliance with subsection (a) [as to either or both of the parties or extending for such parties by not more than sixty days to a day named in the order the period of thirty days mentioned in subsection (a)]. The circuit judge shall, in his decision on the petition, state his findings of fact in support of the order. The order shall become effective according to its tenor when a certified copy of the order has been filed with the marriage license agent.

(c) The serological test [shall be serological test for syphilis and] for determining immunity against rubella shall be approved by the department of health and performed in a laboratory of [,] or [for such test] one approved by [,] the department. [On request of a licensed physician the department shall perform such test without charge.] Only blood samples obtained in a department clinic will be analyzed in the department's lab without charge.

(d) After the completion of the serological test but prior to the issuance of the physician's statement, a written report of the test showing its result shall be transmitted to the physician by the director of the laboratory; one copy of the report shall be filed with the department by such director and another shall for one year be held on file at the laboratory for inspection by any authorized agent of the department. No physician's statement shall be effective under subsection (a) unless accompanied on the same sheet by a statement signed by the laboratory director or his authorized subordinate or the name and completion date, but not the result, of the test and the name and address of the person whose blood was tested, and by a statement signed by the applicant that [he] she is such person.

(e) No information secured from any examination, test, report, statement, or circuit judge's order or decision made under this section shall be divulged by any person except in the performance of his official duties or his professional or other

employment, as contemplated by law, or in compliance with a court order, or except as to his own condition.

[(f)] (f) Nothing in this section shall impair or affect any law or any ordinance, rule, or regulation made by authority of law, relative to the reporting of cases of syphilis discovered by physicians.]

[(g)] (f) Any person who by fraud or wilful misrepresentation circumvents or defeats or attempts to circumvent or defeat, any purpose or provision of this section, or who, being a marriage license agent, accepts any marriage license application in violation of this section, or with knowledge that any statement accompanying the application for such a license contains any false statement issues a marriage license, or who violates subsection (e), shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

[(h)] (g) The department may prescribe the form of the statements and the report mentioned in subsection (d)."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 11, 1983.)

ACT 260

H.B. NO. 245

A Bill for an Act Relating to Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-13, Hawaii Revised Statutes, is amended to read:

"**§26-13 Department of health.** The department of health shall be headed by a single executive to be known as the director of health.

There shall be, within the department of health, [a commission] an advisory board to be known as the board of health, which shall [sit in an advisory capacity to] advise the director of health on matters within the jurisdiction of the department of health. The [commission] board of health shall consist of eleven voting members[, one from each senatorial district and three at large,] appointed by the governor as provided in section 26-34 and shall include the director of social services as an ex officio nonvoting member. The appointed members shall include at least one resident of each of the major counties including the county of Kalawao. The appointed members shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

The department shall administer programs designed to protect, preserve, care for, and improve the physical and mental health of the people of the State. Without limit to the generality of the foregoing, the programs shall include the administration and enforcement of matters and laws of public health of the State, including the program for Waimano home and for the state hospital, but excluding assistance and care for the indigent and the medically indigent.

The functions and authority heretofore exercised by the board of health (excluding assistance and care for the indigent and the medically indigent) and the

department of institutions with respect to Waimano home and the state hospital and the dental health treatment function of the department of public instruction as heretofore constituted are transferred to the department of health established by this chapter.

The governor shall define and differentiate dental health treatment from dental health instruction and shall provide for the gradual transfer of any personnel within the definition of dental health treatment to the department of health. This section shall not be construed to require the transfer from the department of education to the department of health of any dental hygienist having a teacher's certificate and employed by the department of public instruction immediately prior to November 25, 1959."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 11, 1983.)

ACT 261

H.B. NO. 274

A Bill for an Act Relating to the Hawaii Motor Vehicle Accident Reparations Act.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 294-2, Hawaii Revised Statutes, is amended by amending the definition of the "motor vehicle" to read as follows:

"(8) "Motor vehicle" means any vehicle of a type required to be registered under chapter 286, including a vehicle of a type with less than four wheels or a trailer[.] attached to such a vehicle."

SECTION 2. Section 294-4, Hawaii Revised Statutes, is amended to read as follows:

"§294-4 Obligation to pay no-fault benefits. Every no-fault and self-insurer shall provide no-fault benefits for accidental harm as follows:

(1) Except as otherwise provided in section 294-5(c):

- (A) In the case of injury arising out of a motor vehicle accident to any person, including the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian (including a bicyclist), or any user or operator of a moped as defined in section 249-1 who sustains accidental harm as a result of the operation, maintenance, or use of [said] the vehicle, the insurer shall pay, without regard to fault, to [such] the person an amount equal to the no-fault benefits payable to [such] the person as a result of [such] the injury; or
- (B) In the case of death arising out of a motor vehicle accident of any person, including the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian (including a bicyclist), or any user or driver of a moped as defined in section 249-1 who

sustains accidental harm as a result of the operation, maintenance, or use of [said] the vehicle, the insurer shall pay, without regard to fault, to the legal representative of [such] the person, for the benefit of the surviving spouse and any dependent, as defined in section 152 of the Internal Revenue Code of 1954, of [such] the person, an amount equal to the no-fault benefits payable to [such] the spouse and dependent as a result of the death of [such] the person, subject, however, to the provisions of section 294-2(10).

- (2) [Payments for] Payment of no-fault benefits shall be made as [such] the benefits accrue except that in the case of death, payment [for such] of the benefits may, at the option of the beneficiary, be made immediately in a lump sum payment. [Amounts of benefits accrued unpaid thirty days after the insurer has received reasonable proof of the fact and amount of benefits accrued, and demand for payment thereof shall, after the expiration of such thirty days, bear interest at the rate of one and one-half per cent per month.]
- (3) Payment of no-fault benefits shall be made within thirty days after the insurer has received reasonable proof of the fact and amount of benefits accrued, and demand for payment thereof. If the insurer elects to deny a claim for benefits in whole or in part, the insurer shall within thirty days notify the claimant in writing of denial and the reasons for the denial. The denial notice shall be prepared and mailed by the insurer in triplicate copies and be in a format approved by the commissioner. If the insurer cannot pay or deny the claim for benefits because additional information or loss documentation is needed, the insurer shall, within the thirty days, forward the claimant an itemized list of all the required documents.
- (4) Amounts of benefits which are unpaid thirty days after the insurer has received reasonable proof of the fact and amount of benefits accrued, and demand for payment thereof, after the expiration of the thirty days, shall bear interest at the rate of one and one-half per cent per month.
- [(3)] (5) No part of no-fault benefits paid shall be applied in any manner as attorney's fees in the case of injury or death for which [such] the benefits are paid. The insurer shall pay, subject to section 294-30, in addition to the no-fault benefits due, all attorney's fees and costs of settlement or suit, necessary to effect the payment of any or all no-fault benefits found due under the contract. Any contract in violation of this provision shall be illegal and unenforceable, and it shall constitute an unlawful and unethical act for any attorney to solicit, enter into, or knowingly accept benefits under any such contract.
- (6) Any insurer who violates the provisions of this section shall be subject to the provisions of subsections 294-39(b) and (c)."

SECTION 3. Section 294-5, Hawaii Revised Statutes, is amended to read as follows:

"§294-5 Payment from which insurer. (a) A claim for no-fault benefits for accidental harm of a person who is not an occupant of any motor vehicle

involved in an accident may be made against the no-fault insurer of any involved vehicle. The no-fault insurer against whom the claim is asserted shall process and pay the claim as if wholly responsible, but [such] the insurer shall thereafter be entitled to recover from the no-fault insurers of all other involved vehicles proportionate contribution for the benefits paid and the costs of processing the claim.

(b) All no-fault benefits shall be paid secondarily and net of any benefits a person is entitled to receive because of the accidental harm from [social security laws or] workers' compensation laws; provided that this section shall be inapplicable to benefits payable to a surviving spouse and any surviving dependent as provided under section 294-4. If the person does not collect such benefits under [such] the workers' compensation laws by reason of the contest of his right to so collect by the person or organization responsible for payment thereof, the injured person, if otherwise eligible, shall, nevertheless, be entitled to receive no-fault benefits and upon payment thereof the no-fault insurer shall be subrogated to the injured person's rights to collect such benefits.

(c) No payment of no-fault benefits may be made to the occupants of a motor vehicle other than the insured motor vehicle or to the operator or user of a motor vehicle engaging in criminal conduct which causes any loss.

(d) The no-fault insurance applicable on a primary basis to accidental harm to which this chapter applies is the insurance on the vehicle occupied by the injured person at the time of the accident, or, if the injured person is a pedestrian (including a bicyclist), the insurance on the vehicle which caused accidental harm to [such] the pedestrian (including a bicyclist).

If there is no [such] insurance on [such] the vehicle, any other no-fault insurance applicable to the injured person shall apply.

No person shall recover no-fault benefits from more than one insurer for accidental harm as a result of the same accident."

SECTION 4. Section 294-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A person making a claim for no-fault benefits may be allowed an award of a reasonable sum for attorney's fee, based upon actual time expended, which shall be treated separately from [such] the claim and be paid directly by the insurer to the attorney, and all reasonable costs of suit in an action brought against an insurer who denies all or part of a claim for benefits under [such] the policy unless the court or the commissioner, upon judicial or administrative proceedings, respectively, determines that the claim was fraudulent, excessive, or frivolous."

SECTION 5. Section 294-31, Hawaii Revised Statutes, is amended to read as follows:

"§294-31 Fraudulent or frivolous claims. Within the discretion of the court[,], or the commissioner, upon judicial or administrative proceedings, respectively, an insurer or self-insurer may be allowed an award of a reasonable sum as attorney's fee, based upon actual time expended, and all reasonable costs of suit for its defense against a person making claim against [such] the insurer or self-insurer where [such] the claim is determined by the court or the commissioner to be fraudulent or frivolous, and [such] the attorney's fee and all [such] reasonable costs

of suit so awarded may be treated as an offset against any benefits due or to become due to [such] the person."

SECTION 6. Section 294-31.5, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~294-31.5] **Administrative hearing on denial of claim.** [(a) If an insurer or self-insurer elects to deny a claim for no-fault or optional additional insurance benefits in whole or in part, it shall within five business days thereafter notify the claimant in writing of the denial and the reasons for the denial.

(b)] (a) If a claimant objects to the denial of benefits[, he] by an insurer or self-insurer pursuant to section 294-4 and desires an administrative hearing thereupon, the claimant shall file with the commissioner two copies of the denial, a written request for review and a written statement setting forth specific reasons for [his] the claimant's objections. The documents must be filed within sixty days after the date of denial of [his] the claim.

[(c)] (b) The commissioner shall not review any denial of benefits [in which] where the disputed amount exceeds \$5,000[.] as of the date of the denial; provided that if the amount in dispute exceeds \$5,000 due solely to an insurer's or self-insurer's noncompliance with section 294-4, then the claim shall remain within the jurisdiction of the commissioner.

[(d)] (c) The commissioner shall conduct a hearing to review the denial of benefits in conformity with chapter 91. The commissioner shall have all the powers to conduct a hearing as set forth in section 92-16. After granting an opportunity for hearing to the insurer and claimant, the commissioner shall affirm the denial or reject the denial and order the payment of benefits as the facts may warrant.

[(e)] (d) The commissioner may assess the cost of the hearing upon either or both of the parties.

(e) The commissioner's final order may be appealed in the manner provided for by chapter 91."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 11, 1983.)

ACT 262

H.B. NO. 1190

A Bill for an Act Making an Appropriation for Emergency Farm Loans.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as may be necessary for fiscal year 1983-1984, to the agricultural loan revolving fund established under section 155-14, Hawaii Revised Statutes, for providing emergency loan relief to qualified farmers as defined in section 155-1(2).

SECTION 2. The sum appropriated shall be expended by the department of agriculture pursuant to section 155-14, Hawaii Revised Statutes, for the purposes of this Act, provided that all sums not expended or encumbered shall be used for other agricultural loans as provided under chapter 155, Hawaii Revised Statutes.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 11, 1983.)

ACT 263

H.B. NO. 1528

A Bill for an Act Relating to Workers' Compensation Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431-693, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) All rates shall be made in accordance with the following provisions:
- (1) Due consideration shall be given to past and prospective loss experience within and outside this State, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, to past and prospective expenses both countrywide and those specially applicable to this State, and to all other relevant factors within and outside this State[.];¹ including, without limitation of the foregoing, that in the case of workers' compensation insurance, due consideration shall be given to investment income earned or realized by insurers, including investment income earned from unearned premium and loss reserve funds.
 - (2) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any class of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.
 - (3) Risks may be grouped by classifications for the establishing of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.
 - (4) Rates shall not be excessive, inadequate, or unfairly discriminatory.
 - (5) No insurer authorized to do business in this State shall issue any policy which provides or makes available to any risks preferred rates based upon any grouping of persons, firms, or corporations by way of membership, license, franchise, contract, agreement, or any other method or means, other than common majority ownership of such

risks, or except where a common stock ownership in and management control of such risks are held by the same person, corporation, or firm, or except where permitted or authorized by filings in existence as of January 1, 1957 under sections 431-691 to 431-707, as such filings may be amended from time to time, or except where otherwise expressly provided by law."

SECTION 2. Section 431-694, Hawaii Revised Statutes, is amended to read as follows:

"§431-694 Rate filings. (a) Every insurer shall file with the insurance commissioner every manual of classifications, rules, and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether the filing meets the requirements of the casualty rating law, [he] the commissioner shall require the insurer to furnish the information upon which it supports the filing and in such event the waiting period shall commence as of the date such information is furnished. The information furnished in support of a filing may include:

- (1) The experience or judgment of the insurer or rating organization making the filing,
 - (2) Its interpretation of any statistical data it relies upon,
 - (3) The experience of other insurers or rating organizations, or
 - (4) Any other relevant factors.
- (b) A filing and any supporting information shall be open to public inspection after the filing becomes effective.

(c) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf; provided, that nothing contained in the casualty rating law shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(d) Every filing made pursuant to this section in relation to workers' compensation insurance shall include a report of investment income.

[(d)] (e) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of the casualty rating law.

[(e)] (f) Subject to the exception specified in subsection [(f)] (g) of this section, each filing shall be on file for a waiting period of fifteen days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if [he] the commissioner gives written notice within the waiting period to the insurer or rating organization which made the filing that [he needs] such additional time is needed for the consideration of such filing. Upon written application by the insurer or rating organization, the commissioner may authorize a filing which [he] has been reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall

be deemed to meet the requirements of the casualty rating law unless disapproved by the commissioner within the waiting period or any extension thereof.

[(f)] (g) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule, or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of the casualty rating law until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

[(g)] (h) Under such rules and regulations as [he] the commissioner shall adopt the commissioner may, by written order, suspend or modify the requirement of filing as to any class of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. The orders, rules, and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as [he] the commissioner may deem advisable to ascertain whether any rates affected by the order meet the standards set forth in section 431-693(a)(4).

[(h)] (i) Upon the written application of the insured, stating [his] the insured's reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

[(i)] (j) No insurer shall make or issue a contract or policy except in accordance with filings which are in effect for the insurer as provided in the casualty rating law or in accordance with subsection [(g) or (h)] (h) or (i) of this section."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 11, 1983.)

Note

1. Underscoring missing.

ACT 264

S.B. NO. 605

A Bill for an Act Relating to School Health Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 321-243, Hawaii Revised Statutes, is amended to read:

"**[[§321-243 Registered professional nurses.]]** The department of health shall provide a registered professional [nurses at the entry or next level, and each nurse shall be placed] nurse at a school health complex established by the department of health [in consultation with the school health services advisory committee]."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 13, 1983.)

ACT 265

H.B. NO. 713

A Bill for an Act Relating to Corporations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 416, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

- "§416- Distributions from capital surplus.** (a) As used in this section:
- (1) "Capital surplus" means and is limited to:
 - (A) The value of consideration received for shares with par value in excess of the par value,
 - (B) The value of consideration received for shares without par value in excess of the amount determined to be capital pursuant to section 416-59, or
 - (C) Capital contributed to a corporation other than for shares of capital stock; and
 - (2) "Insolvent" means the inability of a corporation to pay its debts as they become due in the usual course of business.
- (b) The board of directors may distribute to its shareholders out of capital surplus a portion of its assets, in cash or property; provided that:
- (1) No such distribution shall be made at a time when the corporation is insolvent or when such distribution would render the corporation insolvent;
 - (2) No such distribution shall be made unless the articles of incorporation so provide or such distribution is authorized by the affirmative vote of the holders of two-thirds of the outstanding shares of each class of stock, whether or not entitled to vote thereon by the provisions of the articles of incorporation of the corporation;
 - (3) No such distribution shall be made to the holders of any class of shares unless all cumulative dividends accrued on all preferred or special classes of shares entitled to preferential dividends shall have been fully paid;
 - (4) No such distribution shall be made to the holders of any class of shares which would reduce the remaining net assets of the corporation below the aggregate preferential amount payable in event of involuntary liquidation to the holders of shares having preferential rights to the assets of the corporation in the event of liquidation;
 - (5) No such distribution shall be made of capital surplus unless the assets of the corporation remaining after the distribution equals in value the total capital and capital surplus of the corporation; and

(6) Each such distribution, when made, shall be identified as a distribution from capital surplus and the amount per share disclosed to the shareholders receiving the same concurrently with the distribution thereof.

(c) Notwithstanding section 416-91, the board of directors may also distribute to the holders of its outstanding shares having a cumulative preferential right to receive dividends, in discharge of their cumulative dividend rights, dividends payable in cash out of the capital surplus of the corporation, pursuant to subsection (b), if at the time the corporation may not pay out such dividends in cash in compliance with section 416-91.

(d) Nothing contained in this section shall limit or prohibit a corporation from making a distribution to shareholders pursuant to section 416-65 upon a reduction of its capital or capital stock or pursuant to section 416-91."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved June 13, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 266

H.B. NO. 1496

A Bill for an Act Relating to the Intake Service Centers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§353- Offender release recommendations to the court. The intake service center shall notify the prosecutor's office of the appropriate county whenever it is recommending to the court that a person who is accused of a class A felony involving force or violence against another person be conditionally released or that bail for such person be lowered. Such notice shall be made upon the completion of the intake service center's investigation on the offender's case so as to allow the prosecutor's office of the appropriate county to be present when the court considers the recommendation."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved June 13, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 267

H.B. NO. 1050

A Bill for an Act Relating to Firearms.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 134-51, Hawaii Revised Statutes, is amended to read as follows:

"[**§134-51**] **Carrying deadly weapons; penalty.** Any person not authorized by law, who carries concealed upon his person or within any vehicle used or occupied by him, or who is found armed with any dirk, dagger, blackjack, slug shot, billy, metal knuckles, pistol, or other deadly or dangerous weapon, shall be fined [not more than \$250,] a minimum of \$500, and no more than \$1,000 or imprisoned not more than one year, or both. Any such person may be immediately arrested without warrant by any sheriff, [policeman,] police officer, or other officer or person. Any weapon, above enumerated, shall, upon conviction of the one carrying or possessing same under this section, be summarily destroyed by the chief of police or sheriff."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 13, 1983.)

ACT 268

H.B. NO. 1088

A Bill for an Act Relating to Gasoline Dealers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 486H-1, Hawaii Revised Statutes, is amended to read as follows:

"**§486H-1 Definitions.** As used in this chapter:

- (1) "Franchise" means:
 - (A) Any agreement or related agreements between a petroleum distributor and a gasoline dealer under which the gasoline dealer is granted the right to use a trademark, trade name, service mark, or other identifying symbol or name owned by the distributor in connection with the retail sale of petroleum products supplied by the petroleum distributor; or
 - (B) Any agreement or related agreements described in subparagraph (A) and any agreement between a petroleum distributor and a gasoline dealer under which the gasoline dealer is granted the right to occupy the premises owned, leased, or controlled by the distributor, for the purpose of engaging in the retail sale of petroleum products supplied by the distributor.
- (2) "Gasoline dealer" means any person engaged in the retail sale of petroleum products in the United States under a franchise agreement entered into with a petroleum distributor.
- (3) "Good faith" means the duty of a gasoline dealer and a petroleum distributor to act in a fair and equitable manner in the performance and

in the demanding of performance of the terms and provisions of the franchise. The petroleum distributor shall not impose on a gasoline dealer by contract, rule or regulation, whether written or oral, any standard of conduct which is not reasonable and of material significance to the franchise relationship.

- (4) "Inventory" means any product sold to a gasoline dealer for resale purposes by a petroleum distributor.
- (5) "Petroleum distributor" means any person engaged in the sale, consignment, or distribution of petroleum products to retail outlets which it owns, leases or otherwise controls.
- (6) "Retail" means the sale of a product for purposes other than resale."

SECTION 2. Section 486H-5, Hawaii Revised Statutes, is amended to read as follows:

"[§486H-5] Gasoline dealer's rights. (a) A petroleum distributor shall not in any way dictate, force, or attempt to set the retail price of any product sold by the gasoline dealer.

(b) After June 7, 1976 it shall be illegal for any petroleum distributor by any action to require a gasoline dealer to purchase only those tires, batteries, and other automotive accessories sold by the distributor. A gasoline dealer may sell any tires, batteries, and other automotive accessories as may be available to him for retail sale.

(c) The petroleum distributor shall at all times act in good faith in carrying out the terms and provisions of the franchise."

SECTION 3. Section 486H-6, Hawaii Revised Statutes, is amended to read as follows:

"[§486H-6] Petroleum distributor's penalty; collection. The petroleum distributor's executive officer, representative, or agent who negotiates any contract in violation of section 486H-5(a) and section 486H-5(b), or who otherwise coerces a gasoline dealer in violation of section 486H-5(a) and section 486H-5(b), shall in addition to other penalties provided by this chapter be subject to a civil penalty of up to \$50,000 for each offense.

The penalty shall be assessed and recovered in a civil action brought by the attorney general or by any county attorney or prosecuting attorney in any court of competent jurisdiction. If brought by a county attorney or prosecuting attorney, the entire amount of the penalty shall be paid to the general fund of the county in which the judgment was entered. If brought by the attorney general, one-half of the penalty shall be paid to the county general fund where the action was brought and one-half shall be paid to the State general fund."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 13, 1983.)

A Bill for an Act Relating to the Housing Loan and Mortgage Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to provide more flexibility by allowing the maximum qualifying income limits under the Hula Mae program to be increased according to a prescribed formula if the annual interest rate on the Hula Mae loan exceeds ten per cent. This will allow qualification restrictions to be more sensitive to market forces, rather than be arbitrarily fixed and insensitive to relative demand.

SECTION 2. Section 356-206, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The adjusted household income of an eligible borrower shall not exceed [one hundred fifty per cent of the median annual income for households of four persons in the State as most recently published by the United States Department of Health and Human Services in November 1980, except that the adjusted household income of a family of one shall not exceed one hundred per cent of such median income.] the amount established by the authority pursuant to this section. For an eligible borrower with a family of four persons, the amount shall be equal to one hundred fifty per cent of the median annual income for households of four persons in the State as published by the United States Department of Health and Human Services in November 1980; provided that the amount may be increased by four per cent for each one-half per cent that the annual interest rate on the eligible loan exceeds ten per cent. For an eligible borrower with a family of other than four persons, the amount computed above for a family of four persons shall be adjusted in accordance with rules adopted by the authority. As used in this subsection, “adjusted household income” means the total income, before taxes and personal deductions, received by all members of the eligible borrower’s household, including, but not limited to, wages, social security payments, retirement benefits, unemployment benefits, welfare benefits, interest and dividend payments, and such other income as provided by rules adopted by the authority under chapter 91, but not including business deductions.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1983.)

A Bill for an Act Relating to the Hawaii Housing Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 516, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

"PART V. FEE TITLE ACQUISITION LOAN PROGRAM

§516-91 Definitions. The following words or terms as used in this part shall have the following meanings unless a different meaning clearly appears from the context:

"Eligible borrower" means any lessee, irrespective of race, creed, national origin, or sex, who:

- (1) Qualifies to purchase the leased fee interest in the lessee's property under this chapter;
- (2) Has never before obtained a loan under this part; and
- (3) Meets other qualifications as established by rules adopted by the authority.

"Eligible loan" means a loan to an eligible borrower for the purchase of the leased fee interest in the eligible borrower's house lot; provided that the property financed is and will be occupied as the principal place of residence by the eligible borrower, and meets other requirements as established by rules adopted by the authority.

"Fee title acquisition loan programs" or "acquisition loan programs" includes all or any part of the loan to lenders program, the purchase of existing loans program, the advance commitments program, and the eligible loan funding program authorized under this part.

"Mortgage lender" means any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, credit union, insurance company, or any other financial institution, or a holding company for any of the foregoing, which:

- (1) Is authorized to do business in the State;
- (2) Customarily provides services or otherwise aids in the financing of mortgages on single family or multi-family residential property; and
- (3) Is a financial institution whose accounts are federally insured or is an institution which is an approved mortgagee for the Federal Housing Administration or is an approved lender for the Veterans Administration or the Farmers Home Administration or is an approved mortgage loan servicer for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

"Revenue bond" means bonds, notes, or other evidence of indebtedness of the authority issued to finance any of the acquisition loan programs under this part.

"Trustee" means a national or state bank or trust company within or without the State which enters into a trust indenture.

"Trust indenture" means an agreement by and between the authority and the trustee, which sets forth the duties of the trustee with respect to the revenue bonds, the security therefor, and other provisions as deemed necessary or convenient by the authority to secure the revenue bonds.

§516-95 Rules; eligible loans. (a) The authority shall establish requirements for property financed by an eligible loan, and may consider, but not be limited to the location, age, condition, and other characteristics of the property.

(b) The authority shall establish restrictions on the terms, maturities, interest rates, collateral, and other requirements for eligible loans.

(c) All eligible loans made shall comply with applicable state and federal laws.

§516-101 Revenue bonds; authorization. (a) The authority, with the approval of the governor, may issue from time to time revenue bonds in amounts not exceeding the total amount of bonds authorized to be issued by the legislature for the purpose of undertaking and maintaining any of the acquisition loan programs.

(b) All revenue bonds shall be issued pursuant to part III of chapter 39, except as provided in this part.

(c) The revenue bonds shall be issued in the name of the authority, and not in the name of the State. The final maturity date of the revenue bonds may be any date not exceeding forty years from the date of issuance.

§516-102 Revenue bonds; payment and security. (a) The revenue bonds shall be payable from and secured by the revenues derived from the benefits of the acquisition loan programs for which the revenue bonds are issued, including:

- (1) Any payment made for eligible loans or other agreements entered into for the acquisition loan programs;
- (2) Revenues derived from insurance proceeds;
- (3) Reserve accounts and earnings thereon; and
- (4) Revenues resulting from loans to mortgage lenders or from the payment on account of principal of and interest on loans purchased from mortgage lenders.

(b) The authority may pledge any revenue derived from the acquisition loan programs financed from the proceeds of the revenue bonds to the punctual payment of the principal, interest, and redemption premiums, if any, on the revenue bonds.

(c) The revenue bonds additionally may be secured by the pledge or assignment of the loans and other agreements or any note or other undertaking, obligation, or property held by the authority or any mortgage lender or its agent to secure the loans.

(d) Any pledge made by the authority shall create a perfected security interest in the revenues, moneys, or property so pledged and thereafter received by the authority from and after the time that a financing statement with respect to the revenues, moneys, or property so pledged and thereafter received shall be filed with the bureau of conveyances. Upon such filing, the revenues, moneys, or property so pledged and thereafter received by the authority immediately shall be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be prior to the lien of all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof.

§516-103 Revenue bonds; interest rate, price, and sale. (a) The revenue bonds shall bear interest at a rate or rates payable monthly, quarterly, or semiannually.

(b) The authority shall include the costs of undertaking and maintaining the acquisition loan programs for which the revenue bonds are issued in determining the principal amount of revenue bonds to be issued. In determining the cost of undertaking and maintaining the acquisition loan programs, the authority may

include the cost of purchasing or funding loans or other agreements entered into for the acquisition loan programs; the costs of studies and surveys; insurance premiums; underwriting fees; financial consultant, legal, accounting, and marketing services incurred; reserve account, trustee, custodian, and rating agency fees; and interest on the bonds for a period not to exceed one year from the date of issuance.

(c) The revenue bonds may be sold at public or private sale, and for a price as may be determined by the authority to be in the best interest of the State.

(d) Section 39-61 shall not apply to revenue bonds issued for the purpose of undertaking and maintaining any of the acquisition loan programs as permitted by this part. The legislature consents to the taxation by the United States of America of interest on revenue bonds issued for the purpose of undertaking and maintaining any of the acquisition loan programs as permitted by this part.

§516-104 Revenue bonds; investment of proceeds, and redemption.

Subject to any agreement with the holders of its revenue bonds, the authority may:

- (1) Invest its moneys not required for immediate use, including proceeds from the sale of any revenue bonds, in accordance with section 356-31;
- (2) Purchase its revenue bonds out of any fund or money of the authority available therefor, and hold, cancel, or resell the revenue bonds.

§516-107 Trustee; designation, duties. (a) The authority shall designate a trustee for each issue of revenue bonds secured under the same trust indenture; provided that the trustee shall be approved by the director of finance.

(b) The trustee shall be authorized by the authority to receive and receipt for, hold, and administer the proceeds of the revenue bonds, and to apply the proceeds to the purposes for which the bonds are issued.

(c) The trustee also shall be authorized by the authority to hold and administer the acquisition loan program revenue bond special fund established pursuant to section 516-111, and to receive and receipt for, hold, and administer the revenues derived by the authority from the benefits of the acquisition loan programs for which the revenue bonds are issued and to apply these revenues to the payment of the cost of administering, operating, and maintaining the acquisition loan programs, to pay the principal of and interest of these bonds, to the establishment of reserves, and to other purposes as may be authorized in the proceedings providing for the issuance of the revenue bonds.

(d) Notwithstanding section 39-65, the director of finance may appoint the trustee to serve as fiscal agent for:

- (1) The payment of the principal of and interest on the revenue bonds; and
- (2) The purchase, registration, transfer, exchange, and redemption of the bonds.

(e) The trustee shall perform additional functions with respect to the payment, purchase, registration, transfer, exchange, and redemption, as the director of finance may deem necessary, advisable, or expeditious, including the holding of the revenue bonds and coupons which have been paid and the supervision of the destruction thereof in accordance with the law.

(f) Nothing in this part shall limit or be construed to limit the powers granted to the director of finance in sections 36-3 and 39-12, and the third sentence of section 39-65, to appoint the trustee or others as fiscal agents, paying agents, and

registrars for the revenue bonds or to authorize and empower those fiscal agents, paying agents, and registrars to perform the functions referred to in those sections.

§516-108 Trust indenture. (a) A trust indenture may contain covenants and provisions authorized by part III of chapter 39, and as deemed necessary or convenient by the authority for the purposes of this part.

(b) A trust indenture may allow the authority to pledge and assign to the trustee loans and other agreements related to the acquisition loan programs, and the rights of the authority thereunder, including the right to receive revenues thereunder and to enforce the provision thereof.

(c) Where a trust indenture provides that any revenue bond issued under that trust indenture is not valid or obligatory for any purpose unless certified or authenticated by the trustee, all signatures of the officers of the State upon the revenue bonds required by section 36-64 may be facsimiles of their signatures.

(d) A trust indenture also shall contain provisions as to:

- (1) The investment of the proceeds of the revenue bonds, the investment of any reserve for the bonds, the investment of the revenues of the acquisition loan programs, and the use and application of the earnings from investments; and
- (2) The terms and conditions upon which the holders of the revenue bonds or any portion of them or any trustee thereof may institute proceedings for the foreclosure of any loan or other agreement or any note or other undertaking, obligation, or property securing the payment of the bonds and the use and application of the moneys derived from the foreclosure.

(e) A trust indenture also may contain provisions deemed necessary or desirable by the authority to obtain or permit, by grant, interest subsidy, or otherwise, the participation of the federal government in the acquisition loan programs or in the financing of the costs of administering, operating, or maintaining the acquisition loan programs.

§516-111 Revenue bonds; special funds. (a) A separate special fund shall be established for each acquisition loan program or part thereof financed from the proceeds of the revenue bonds secured under the same trust indenture. Each fund shall be designated "fee title acquisition loan program revenue bond special fund" and shall bear additional designation as the authority deems appropriate to properly identify the fund.

(b) Notwithstanding any other law to the contrary, including particularly section 516-44, all revenues, income, and receipts derived from the benefits of the acquisition loan program for which the revenue bonds are issued shall be paid into the fee title acquisition loan program revenue bond special fund established for that program and applied as provided in the proceedings authorizing the issuance of the revenue bonds.

§516-121 Acquisition loan programs; procedures and requirements. (a) The authority shall establish procedures for:

- (1) The submission of requests or the invitation of proposals for loans to mortgage lenders;

- (2) The purchase of existing loans by auction, invitation of tenders, or negotiation;
- (3) The making of advance commitments to purchase and the purchasing of eligible loans to be made by mortgage lenders by auction, invitation of tenders, or negotiation; and
- (4) Loan applications made through mortgage lenders to eligible borrowers.
- (b) The authority shall establish standards and requirements for:
 - (1) The allocation of loans to mortgage lenders;
 - (2) The allocation of funds to purchase existing loans from mortgage lenders;
 - (3) The making of advance commitments and allocation of funds to purchase eligible loans from mortgage lenders; and
 - (4) The participation by mortgage lenders as originators and processors of eligible loans on behalf of the authority.

(c) The standards and requirements for the allocation of funds to mortgage lenders adopted by the authority shall be designed to include the maximum number of qualified mortgage lenders as participants in the acquisition loan programs.

(d) The authority may adopt rules under chapter 91 necessary or convenient for the operation of the acquisition loan programs under this part.

§516-122 Acquisition loan programs; general powers. (a) The authority may make, enter into, and enforce all contracts or agreements which are necessary, convenient, or desirable for the purposes of the performance of its duties in executing the acquisition loan programs.

(b) The authority may require representations and warranties as it determines necessary to secure its loans.

§516-123 Acquisition loan programs; self supporting. The interest rate, fees, charges, premiums, and other terms of the loans made under the acquisition loan programs shall be at least sufficient to pay the cost of administering and maintaining the portion of the specific acquisition loan programs for which the revenue bonds have been issued, and to assure payment of the principal of and interest on the revenue bonds as they become due.

§516-124 Acquisition loan programs; fees. The authority may establish, revise, charge, and collect fees, premiums, and charges as necessary, reasonable, or convenient, for its acquisition loan programs.

The fees, premiums, and charges shall be deposited into the fee title acquisition loan program revenue bond special fund established for the particular acquisition loan program or part thereof from which the fees, premiums, and charges are derived as determined by the authority.

§516-125 Acquisition loan programs; evidence of eligible loan. (a) Each mortgage lender who participates in any acquisition loan program shall submit evidence, as deemed satisfactory by the authority, that eligible loans have been made from the proceeds of the revenue bonds.

(b) The authority may inspect the books and records of the mortgage lenders as may be necessary for this section.

§516-131 Loans to lenders program. (a) The authority may make loans to mortgage lenders under terms and conditions requiring that the loan proceeds be used within a time period prescribed by the authority to make eligible loans in an aggregate principal amount substantially equal to the amount of the loan.

(b) The loan made to a mortgage lender shall be a general obligation of the respective mortgage lender.

(c) The loan as determined by the authority shall:

- (1) Bear a date or dates;
- (2) Mature at a time or times;
- (3) Be evidenced by a note, bond, or other certificate of indebtedness;
- (4) Be subject to prepayment; and
- (5) Contain other provisions consistent with this part.

(d) Subject to any agreement with the holders of its revenue bonds, the authority may consent to any modification to the rate of interest, time, and payment of any installment of principal or interest, security or any other term of any loan to a mortgage lender or any bond, note, contract, or agreement of any kind to which the authority is a party.

§516-132 Loan to lenders program; collateral security. (a) Loans made to mortgage lenders additionally may be secured by a pledge of a lien upon collateral security in an amount as the authority deems necessary to assure the payment of principal of and interest on the loans as they become due.

(b) The authority shall determine the nature and type of collateral security required.

(c) A statement designating the collateral security pledged, the mortgage lender pledging the collateral, and the authority's interest in the pledged collateral may be filed with the bureau of conveyances. Where a statement has been filed, no possession, further filing, or other action under any state law shall be required to perfect any security interest which may be deemed to have been created in favor of the authority. The mortgage lender shall be deemed the trustee of an express trust for the benefit of the authority in all matters relating to the pledged collateral.

(d) Subject to any agreement with the holders of its revenue bonds, the authority may collect, enforce the collection of, and foreclose on any collateral securing its loans to mortgage lenders. The authority may acquire, take possession of, sell at public or private sale with or without bidding, or otherwise deal with the collateral to protect its interests.

§516-141 Purchase of existing loans program. (a) The authority may contract with a mortgage lender to purchase, in whole or in part, existing loans, whether or not eligible loans. The contract may contain provisions as determined by the authority to be necessary or appropriate to provide security for its revenue bonds, including but not limited to provisions requiring the:

- (1) Repurchase of the loans, in whole or in part, by mortgage lenders at the option of the authority;
- (2) Payments of premiums, fees, charges, or other amounts by mortgage lenders to provide a reserve or escrow fund for the purposes of protecting against loan defaults; and

(3) Guarantee by, or for recourse against, mortgage lenders, with respect to defaults on these loans of the authority.

(b) The authority shall require as a condition of each purchase of existing loans from a mortgage lender that the mortgage lender proceed to make and disburse eligible loans in an aggregate principal amount substantially equal to the amount of the proceeds from the purchase by the authority of loans therefrom.

§516-151 Advance commitments program. (a) The authority may contract with a mortgage lender for the advance commitment to purchase eligible loans.

(b) The contract may contain provisions as determined by the authority to be necessary or appropriate to provide security for its revenue bonds.

§516-161 Eligible loan funding program. (a) The authority may make or contract directly with mortgage lenders to fund eligible loans.

(b) The contract may contain provisions as determined by the authority to be necessary or appropriate to provide security for its revenue bonds.

§516-171 Loans; service and custody. The authority may contract for the service and custody of its loans. The contract may provide for the payment of fees or charges for the services rendered; provided that the fees or charges shall not exceed the usual, customary, and reasonable charges for the services rendered.

§516-172 Loans; sale, pledge, or assignment. (a) Subject to any agreement with the holders of its revenue bonds, the authority may sell its loans at public or private sale at a price and upon terms and conditions as it determines.

(b) Subject to any agreement with the holders of its revenue bonds, the authority may pledge or assign its loans, other agreements, notes, or property to secure the loans or agreements.

§516-173 Loans; insurance and guarantees. The authority may procure insurance or guarantees against any default of its loans, in amounts and from insurers or guarantors, as it deems necessary or desirable.

§516-174 Loans; default. The authority may:

- (1) Renegotiate, refinance, or foreclose any loan in default;
- (2) Waive any default or consent to the modification of the terms of any loan or security agreement;
- (3) Commence any action to protect or enforce any right conferred upon it by any law, mortgage, insurance policy, contract, or other agreement;
- (4) Bid for and purchase the property secured by the loan at any foreclosure or other sale, or acquire or take possession of the property secured by the loan; and
- (5) Operate, manage, lease, dispose of, or otherwise deal with the property secured by the loan.

§516-181 Interest acquired. (a) Upon acquisition of the leased fee interest in a residential houselot from the proceeds of an eligible loan, the property interest acquired shall be all of the right, title, and interest of the fee owner and all legal and equitable owners, if any, in and to the residential houselot acquired, subject to all covenants, conditions, easements, reservations, and restrictions of record running with the land or contained in the agreement of sale, deed, or other conveyance held by the fee owner and legal and equitable owners. The acquisition of a leased fee

interest in a residential house lot from the proceeds of an eligible loan shall terminate all the right, title, and interest of the fee owner and all legal and equitable owners, whether the interest be a remainder, vested or contingent, a reversion, or other beneficial interest in the property, present or prospective.

(b) If the leasehold on property acquired from the proceeds of an eligible loan is subject to any mortgage, lien, or encumbrance suffered or permitted by the eligible borrower, including, but not limited to, rights arising through divorce, marriage, or assignment, the purchase of the leased fee interest in such residential house lot in no manner shall affect or impair the mortgage, lien, or encumbrance or the security afforded thereby to the holder thereof, and the leasehold shall continue, notwithstanding the purchase of the leased fee interest in such residential house lot by the eligible borrower, for the purposes and to the extent necessary to avoid any impairment of leasehold security, unless the holder of the mortgage, lien, or encumbrance on such leasehold and the authority in writing shall consent to the transfer thereof to the fee. Upon the written consent by the holder thereof and the authority, each such mortgage, lien, or encumbrance to which the leasehold is subject and to which such consent refers shall be transferred to and shall bind the fee acquired by the eligible borrower, and thereafter shall continue in full force and effect as a mortgage, lien, or encumbrance of the fee acquired by the eligible borrower, in the same order and priority among such mortgages, liens, and encumbrances so transferred to the fee as the same applied to and bound the eligible borrower's immediate, previous leased fee interest.

§516-182 Restrictions on sale and use of residential lots acquired from proceeds of eligible loan. No interest in property acquired from the proceeds of an eligible loan made under this part, so long as any part of such eligible loan is outstanding, shall be transferred unless contemporaneously with such transfer all interest in onsite improvements situated on such property are transferred to the same transferee.

§516-186 Construction. The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law. The fee title acquisition loan programs authorized under this part may be undertaken, and revenue bonds may be issued under this part, notwithstanding that any other law may provide for a loan program similar to that authorized under this part, and may be undertaken for the issuance of bonds for like purposes, and without regard to the requirements, restrictions, limitations, or other provisions contained in any other law. Insofar as the provisions of this part are inconsistent with the provisions of any other law, this part shall be controlling."

SECTION 2. Issuance of revenue bond; amount authorized. Revenue bonds may be issued by the authority pursuant to part III of chapter 39, Hawaii Revised Statutes, and part V of chapter 516, Hawaii Revised Statutes, in an aggregate principal amount not to exceed \$50,000,000 at such times and in such amounts as the Hawaii Housing Authority deems advisable for the purpose of undertaking and maintaining any of the acquisition loan programs in part V of chapter 516, Hawaii Revised Statutes, relating to the funding or purchasing of eligible loans.

SECTION 3. Section 516-33.5, Hawaii Revised Statutes, is amended to read as follows:

"[§516-33.5]] Deposits by lessees. (a) The authority may require the submission of a deposit by any lessee applying to the authority for the purchase of a residential lot under this chapter. The amount of the deposit[, not to exceed \$500] shall be established by rule.

(b) [No deposit shall be required to be made more than one hundred eighty days prior to the date estimated by the authority for condemnation of the development tract.]

The deposit may be applied by the authority[, after the acquisition of all or part of the development tract or the institution of eminent domain proceedings,] to payment of appraisal, survey, [and] attorney fees, and any other cost the authority has incurred as a result of the designation, with the remainder of the deposit to be applied toward the purchase of the owner's fee interest. The authority shall incur no liability for such deposits under this section."

SECTION 4. Section 516-44, Hawaii Revised Statutes, is amended to read as follows:

"§516-44 Fee simple residential revolving fund. A fee simple residential revolving fund is hereby created. The funds appropriated for the purposes of this chapter and all moneys received or collected by the Hawaii housing authority under this chapter shall be deposited in the revolving fund. The proceeds in the funds shall first be used to pay the principal and interest on bonds or other indebtedness issued by the authority, or by the State, and then for necessary expenses of the authority in administering this part. All interest earned on moneys deposited by lessees into this revolving fund shall accrue to the lessees.

Moneys in the fund shall be used to pay all costs of this chapter including administration."

SECTION 5. **Severability.** If any provision of this Act, or any provision of the part to be added pursuant hereto to chapter 516, Hawaii Revised Statutes, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect any other provision of this Act or such part or the application thereof to other persons or circumstances which can be given effect without the invalid provision or application, and to this end the provisions of this Act and such part are severable.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 13, 1983.)

ACT 271

H.B. NO. 1028

A Bill for an Act Relating to Authority of the Governor During Disaster.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. During a state disaster certain commodities necessary for the health, safety, and welfare of the people are in greater demand. If sellers of these commodities increase the prices of these items in order to increase their profit, they are profiting from the misfortune of others. It is the intent of the legislature to penalize those sellers who raise the prices of their goods solely for increased profit during a state disaster.

SECTION 2. Chapter 209, part I, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§209- Mark-up freeze; authorized by governor. (a) Whenever the governor declares a state disaster for the entire State or any portion thereof, the governor, pursuant to a proclamation issued under section 209-2, may prohibit any increase on the mark-up on the sale of any commodity deemed to be necessary for the health, safety, and welfare of the people in the community. Any commodity may be specified in the proclamation, and may include, but is not limited to, food products, fuel products, clothing, and housewares.

(b) The mark-up for commodities for which increases are prohibited shall be not more than the normal mark-up at that outlet seventy-two hours before the disaster was proclaimed.

(c) "Mark-up" means the percentage by which the retail selling price of a commodity exceeds its cost to the seller. Notwithstanding this section, any additional operating expenses incurred by the seller because of the disaster, and which can be documented, may be passed on to the consumer.

(d) Any person, firm company, association, or corporation violating this provision shall be fined a sum of not less than \$50 nor more than \$1,000 for each violation, which sum shall be collected in a civil action brought by the director of the office of consumer protection on behalf of the State. Each item sold at a price which is prohibited by this section shall constitute a violation."

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 272

H.B. NO. 1237

A Bill for an Act Relating to Bicycle Licenses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 249, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§249- Exemption from tax and tag. Any bicycle owned and brought into the State by any person shall be exempt from this chapter relative to the payment of taxes and display of State of Hawaii bicycle tag for the remaining period of the year for which the taxes have been paid on such bicycle by the owner in

compliance with the law of the state or country of his residence, and shall display on the bicycle the tag for the current year required by the law of such state or country."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved June 13, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 273

H.B. NO. 393

A Bill for an Act Relating to Agricultural Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to implement Article XI, Section 3, of the Hawaii State Constitution, by providing for standards, criteria, and procedures which are designed to conserve and protect agricultural lands and assure the long-term availability of agriculturally suitable lands. These lands are critical to the long-term viability of agriculture as a major export industry and as a means to increase Hawaii's self-sufficiency and diversification in agricultural products.

SECTION 2. State of Hawaii land evaluation and site assessment commission. (a) Establishment and membership. There is established within the office of the legislative reference bureau for administrative purposes the State of Hawaii land evaluation and site assessment commission comprised of seventeen voting members as follows: the director of the department of planning and economic development, the planning directors of each of the four counties, the chairperson of the board of land and natural resources, or their designated representative, the chairperson of the board of agriculture, and ten members who shall be nominated by the president of the senate and the speaker of the house of representatives and appointed by the governor, one member to be selected from each of the following: the Hawaiian Sugar Planters' Association, the pineapple industry, the college of tropical agriculture and human resources of the University of Hawaii, the Hawaii Association of Conservation Districts, the Hawaii Farm Bureau Federation, an organization representing large landowners, an organization representing agricultural workers, and three members from the general public. The chairperson of the board of agriculture shall be the chairperson of the commission. Any vacancy on the commission shall be filled in the same manner in which the original position was filled. The members shall receive no compensation for their services, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(b) Purpose and operation. The commission shall identify, develop, and recommend for legislative adoption important agricultural lands pursuant to the land classification system specified in subsection (d). The commission shall be authorized to undertake all necessary studies to fully and effectively carry out its functions, and may enter into contracts with qualified persons or any government agency

on such terms as it may deem appropriate. The commission shall receive administrative support from the legislative reference bureau and may appoint its own employees without regard to chapters 76 and 77, Hawaii Revised Statutes, and consultants using appropriated funds. All state and county agencies shall render services upon request of the commission through its chairperson to facilitate the purposes of this section. County agencies may be reimbursed by the commission for the reasonable costs of their services upon their request.

(c) Public participation. The commission shall invite the participation of the general public, particularly persons having an interest in agricultural lands located in the State. Public information meetings and hearings shall be held as frequently as deemed necessary and feasible; provided that at least one hearing, which shall be conducted subject to chapter 92, Hawaii Revised Statutes, shall be held in each county prior to the submission of each report required under subsections (e) and (f).

(d) State of Hawaii land evaluation and site assessment. The commission shall formulate the State of Hawaii land evaluation and site assessment system in identifying agricultural lands of importance to the State of Hawaii. In the formulation of the system, the commission shall take into consideration existing data provided by previous studies done under the Land Study Bureau and appropriate attributes of the Land Study Bureau's Detailed Land Classification system and the Agricultural Lands of Importance to the State of Hawaii system. The system may be patterned after the Soil Conservation Service's land evaluation and site assessment system and shall consist of two parts. The first part shall consist of a land evaluation which shall be concerned with the overall quality of the physical properties of the land. The commission shall evaluate the land and points shall be apportioned to the following categories, among others: (1) quality of the land, based on soil characteristics, growing season, moisture supply, temperature, humidity, sunlight, air drainage, elevation, slope, aspect, and related factors needed to produce sustained high agricultural yields when treated and managed according to modern farming methods, and (2) availability of irrigation water, or potential for irrigation system development.

The second part of the State of Hawaii land evaluation and site assessment system shall entail site assessment. Points shall be apportioned on the basis of the compatibility of agricultural use to the following categories, among others: (1) state land use designation, (2) conformance to the state plan and functional plans, if any, (3) county zoning, (4) conformance to the county general plan and development plan, (5) availability of public infrastructure, (6) non-agricultural needs including housing, parks, open space or green belt area, and resort development, (7) financial feasibility to continue operation, (8) proposed use compatibility, and (9) effect on self-sufficiency in agricultural products.

The commission may delete or add other factors to this subsection with a majority approval of the commission. The commission shall exercise its discretion by allocating points and assigning weights to these factors which when added together shall not be greater than the total amount of points available.

(e) 1984 report. Prior to the convening of the regular session of 1984, the commission shall submit to the legislature a report of its findings and recommendations. The report shall include, but not be limited to:

- (1) An evaluation of alternative agricultural production goals for the State, including an assessment of economic feasibility and information relating to specific locational and land area requirements for achieving each alternative;
- (2) A recommended goal or set of goals relating to agricultural production in the State, including an assessment of economic feasibility and the identification of specific locational and land area requirements for achieving this alternative;
- (3) A recommended process to identify important agricultural lands, based on the recommended goal or goals for agricultural production; state agricultural and land use policies; and the appropriate attributes of the land evaluation and site assessment system, or other existing agricultural land classification systems or processes; and
- (4) Proposed legislation if needed to adopt the recommended land classification system or process.

(f) 1985 report; dissolution of commission. Prior to the convening of the regular session of 1985, the commission shall submit to the legislature a report of its findings and recommendations. The report shall include, but not be limited to:

- (1) A set of maps and other appropriate documents identifying the important agricultural lands in the State based on the application of the commission's recommended land use classification system or process, as may be amended following legislative review in 1984; and
- (2) A comprehensive set of legislative proposals to amend existing statutory provisions in order to effectuate the intent of the commission's final recommendations.

Upon adjournment sine die of the regular session of 1985, the commission shall cease to exist.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 1983-1984, for use by the commission to carry out the purposes of this Act. The sum appropriated shall be expended by the legislative reference bureau for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1983.)

A Bill for an Act Relating to Contractors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The construction industry has become increasingly concerned about lost revenues which are diverted to non-Hawaii contractors due to the non-

licensing of those contractors who work directly or indirectly for the federal government. In addition, there is concern about the lack of payment by such contractors of Hawaii workers' compensation premium rates. These non-licensed, non-Hawaii contractors who receive federal contracts can and do subsequently hire non-licensed subcontractors.

The legislature is also concerned about the economic aspects of this issue and the fact that there is a significant dollar loss to the Hawaii construction industry in particular, and to the State in general. Failure to require contractors working directly or indirectly for the federal government to be licensed under Hawaii's contractor licensing laws is a contributing factor to the high unemployment rates found in Hawaii's unions. Equity in the application of Hawaii's licensing requirements is necessary to safeguard the State's economy and public welfare.

The absence of licensing requirements means that problems can arise regarding the enforcement of Hawaii building standards and also policing non-licensed contractors and subcontractors. In some cases, when a federal job is temporarily brought to a halt or runs into scheduling problems, the non-licensed contractors take jobs in the private sector where licensing is required. In the event problems arise later with regard to their work, consumer complaints must go unanswered because these contractors have long since left the Islands.

Therefore the legislature finds that appropriate amendments to Chapter 444, Hawaii Revised Statutes, must be made to clarify contractor licensing laws.

SECTION 2. Section 444-1, Hawaii Revised Statutes, is amended to read as follows:

"§444-1 Definitions. As used in this chapter:

- (1) "Board" means the contractors license board;
- (2) "Contractor" means any person who by himself or through others offers to undertake, or holds himself out as being able to undertake, or does undertake to alter, add to, subtract from, improve, enhance, or beautify any realty or construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement, or do any part thereof, including the erection of scaffolding or other structures or works in connection therewith;
- (3) "Contractor" includes a subcontractor [and], a specialty contractor[;], and any person, general engineering, general building, or specialty contractor who performs construction as defined in section 444-1(2) directly or indirectly for the federal government;
- (4) "Person" means an individual, partnership, joint venture, corporation, or any combination thereof. "Corporation" includes an association, business trust or any organized trust or any organized group of persons;
- (5) "RME" means responsible managing employee;
- (6) "Sale" means any arrangement between two or more persons as a result of which there is, or is to be, a transfer of property for a consideration.

If any provision of this section, or the application thereof to any person, or circumstances, is held to be invalid, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid

provision or application, and to this end the provisions of this section are severable."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

ACT 275

H.B. NO. 1402

A Bill for an Act Relating to the Contractors License Board.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 444-3, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read:

"(a) There shall be a contractors license board of thirteen members appointed by the governor in the manner prescribed in section 26-34.

(b) (1) [Nine] Ten members of the board shall be contractors who have been actively engaged in the contracting business for a period of not less than five years preceding the date of their appointment.

[(2) Eight members shall be residents of the city and county of Honolulu, two members shall be residents of the county of Hawaii, two members shall be residents of the county of Maui, and one member shall be a resident of the county of Kauai.

(3) Three] (2) Five members of the board shall be general engineering [contractors, three members shall be general] or building contractors, [three] five members shall be specialty contractors, and [four] three members shall be noncontractors. No member shall receive any compensation for his services, but each shall be reimbursed for his necessary traveling expenses incurred in the performance of his duties.

(3) Each county shall be represented on the board.

(c) Except for members of the board first appointed, no one, except the [four] three noncontractor members, shall be eligible for appointment who does not at the time of his appointment hold a valid and unexpired license to operate as a contractor. Each of the contractor members of the board first appointed shall, within thirty days of his appointment, qualify for and obtain a license to operate as a contractor."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that current board members shall be permitted to serve until their current terms expire; provided further that the first vacancy caused by the expiration or other termination of membership on the board of a member appointed as a general building or general engineering contractor, and the first vacancy caused by the expiration or other

termination of membership on the board of a member appointed as a noncontractor shall be filled by appointments of specialty contractors.

(Approved June 14, 1983.)

ACT 276

H.B. NO. 658

A Bill for an Act Relating to Engineers, Architects, and Surveyors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:

“§26H-4 **[[NEW]] Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1983:

- (1) Chapter 444 (Contractors License Board)
- (2) Chapter 448E (Board of Electricians and Plumbers)
- [(3)] Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)
- (4) [3] Chapter 466 (Board of Public Accountancy)
- [(5)] [4] Chapter 467 (Real Estate Commission)
- [(6)] [5] Chapter 448H (Elevator Mechanics Licensing Board)
- (b) The following chapters are hereby repealed effective December 31,

1984:

- (1) Chapter 436D (Board of Acupuncture)
- (2) Chapter 442 (Board of Chiropractic Examiners)
- (3) Chapter 448 (Board of Dental Examiners)
- (4) Chapter 453 (Board of Medical Examiners)
- (5) Chapter 457 (Board of Nursing)
- (6) Chapter 447 [(Board)] (Dental Hygienists)
- (c) The following chapters are hereby repealed effective December 31,

1985:

- (1) Chapter 460 (Board of Osteopathic Examiners)
- (2) Chapter 461 (Board of Pharmacy)
- (3) Chapter 455 (Board of Examiners in Naturopathy)
- (4) Chapter 463E (Podiatry)
- (5) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- (6) Chapter 457B (Board of Examiners of Nursing Home Administrators)
- (d) The following chapters are hereby repealed effective December 31,

1986:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board)
- (2) Chapter 437B (Motor Vehicle Repair Industry Board)
- (3) Chapter 440 (Boxing Commission)
- (4) Chapter 460J (Pest Control Board)
- (5) Chapter 438 (Board of Barbers)
- (6) Chapter 439 (Board of Cosmetology)

1987: (e) The following chapters are hereby repealed effective December 31,

- (1) Chapter 458 (Board of Dispensing Opticians)
- (2) Chapter 459 (Board of Examiners in Optometry)
- (3) Chapter 452 (Board of Massage)
- (4) Chapter 471 (Board of Veterinary Examiners)
- (5) Chapter 441 (Cemeteries and Mortuaries)
- (6) Chapter 463 (Board of Detectives and Guards)

1988: (f) The following chapters are hereby repealed effective December 31,

- (1) Chapter 465 (Board of Certification for Practicing Psychologists)
- (2) Chapter 468E (Board of Speech Pathology and Audiology)
- (3) Chapter 359L (Factory Built Housing Advisory Board)
- (4) Chapter 468B (Solar Energy Device Dealers)
- (5) Chapter 468K (Travel Agencies)
- (6) Chapter 373 (Commercial Employment Agencies)[.]
- (g) The following chapter is hereby repealed effective December 31, 1989:
- (1) Chapter 464 (Board of Registration of Professional Engineers, Architects, and Surveyors)."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

ACT 277

S.B. NO. 806

A Bill for an Act Relating to Payment for Goods and Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 103, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§103- Prompt payment. Any money, other than retainage, paid to a contractor shall be dispersed to subcontractors within ten days after receipt of the money in accordance with the terms of the subcontract, provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes. Upon final payment to the contractor, full payment to the subcontractor, including retainage, shall be made within ten days after receipt of the money, provided there are no bona fide disputes over the subcontractor's performance under the subcontract."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to International Banking Facilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature hereby declares that Hawaii has grown to be a leading center for international commerce and finance in the Pacific. In recent years, however, this leadership has been challenged, particularly in the field of international banking, where significant amounts of business activity is currently conducted in London, Hong Kong, the Caribbean, and other off-shore locations. Development of this off-shore business is due, in a large part, to federal regulatory requirements, and state and county taxes. Federal reserve system regulations prohibiting payment of interest on deposits of less than thirty days or requiring maintenance of reserves of bank deposits, reduced the incentive for United States banks to conduct international business in domestic locations.

In recent actions, however, the board of governors of the federal reserve system has amended Regulation D, "Reserve Requirements of Depository Institutions" (12 CFR Part 204) and Regulation Q, "Interest on Deposits" (12 CFR Part 217) to authorize beginning December 3, 1981, the establishment in the United States of international banking facilities (IBFs) by U.S. depository institutions, Edge or Agreement Corporations, and branches and agencies of foreign banks located in the United States. By December 22, 1981, there were 254 IBF's operating in the U.S., with the majority (135) in New York, and the rest scattered in 16 other states. Volume by the end of the year (only four weeks after the federal reserve action) totalled \$52 billion, with \$18 billion in New York IBF's and \$9 billion in other states.

Under the rules adopted by the board, an IBF may accept deposits from foreign residents (including banks), or from other IBFs. Such deposits are now exempt from reserve requirements of Regulation D and from interest rate limitations of Regulation Q. IBFs are now permitted to offer to foreign non-bank residents large denomination time deposits with a minimum maturity or required notice period prior to withdrawal of at least two business days. In addition, IBFs are permitted to offer overnight time deposits to foreign offices of U.S. depository institutions or foreign banks to other IBFs, foreign central banks, or to the institution establishing the IBF. Funds raised by the IBF can be used only to extend credit to foreign residents, to other IBFs, or to an institution establishing an IBF. Funds derived by an institution from its own IBF will be subject to Eurocurrency reserve requirements.

The legislature believes that the establishment of IBFs in U.S. banking offices will enhance the international competitive position of banking institutions located in the United States.

The legislature further finds and declares that banks pay much higher income taxes on foreign transactions conducted in Hawaii than would be paid in Hong Kong, London, or other off-shore locations and, therefore, continuation of taxes on this class of transactions when conducted in the State provides a strong incentive for banks to continue and expand their conduct of international transactions from foreign sites.

The legislature intends by the enactment of this Act to permit the establishment of Hawaii-based international banking facilities for the purpose of making loans to or accepting deposits from certain foreign customers, free from either investment interest rate restrictions or reserve requirements, as well as state and county taxes. Related foreign exchange transactions shall also be eligible. These provisions permit a domestic bank to make loans and accept deposits from specified foreign customers through their Hawaii-based international banking facility under essentially the same conditions which exist outside of the United States where the business is currently conducted.

The legislature further intends by enactment of this Act to provide for the exemption of income from an international banking facility from state and county taxation, subject to a tax floor provision to maintain revenues from international business which is currently conducted from Hawaii sites, and, therefore, taxable. The floor is to be phased out over a ten-year period, affording ample opportunity to further protect the revenue base in light of continuing assessment of the economic development impact of the creation of these facilities.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new part to be appropriately designated and to read:

"PART . INTERNATIONAL BANKING FACILITIES

§ - **Definitions.** As used in this part:

- (1) "Bank" includes any organization subject to chapter 403 or 407.
- (2) "International banking facility" or "IBF" means a set of asset and liability accounts segregated on the books and records of a depository institution, United States branch or agency of a foreign bank, or an Edge or Agreement Corporation that includes only international banking facility time deposits and international banking facility extensions of credit.
- (3) "International banking facility extension of credit" or "IBF loan" means any transaction where an IBF supplies funds by making a loan, or placing funds in a deposit account. Such transactions may be represented by a promissory note, security, acknowledgement of advance, due bill, repurchase agreement, or any other form of credit transaction. Such credit may be extended only to:
 - (A) Any office located outside the United States of another depository institution organized under the laws of the United States or an Edge or Agreement Corporation;
 - (B) Any office located outside the United States of a foreign bank;
 - (C) A United States or a non-United States office of the institution establishing the IBF;
 - (D) Another IBF;
 - (E) An institution whose time deposits are exempt from interest rate limitations under section 217.3(g) of Regulation Q (12 CFR 217.3(g)) of the Board of Governors of the Federal Reserve System; or
 - (F) A non-United States resident or a foreign branch, office, subsidiary, affiliate, or other foreign establishment ("foreign affiliate") controlled by one or more domestic corporations; provided that the funds are used

only to finance the operations outside the United States of the borrower or of its affiliates located outside the United States.

(4) "International banking facility time deposit" or "IBF time deposit" means a deposit, placement, borrowing, or similar obligation represented by a promissory note, acknowledgement of advance, or similar instrument that is not issued in negotiable or bearer form; and

(A) That must remain on deposit at the IBF at least overnight;

(B) That is issued to:

- (1) Any office located outside the United States of another depository institution organized under the laws of the United States or of an Edge or Agreement Corporation;
- (2) Any office located outside the United States of a foreign bank;
- (3) A United States office or a non-United States office of the entity establishing the IBF;
- (4) Another IBF; or
- (5) An institution whose time deposits are exempt from interest rate limitations under section 217.3(g) of Regulation Q (12 CFR 217.3(g)) of the Board of Governors of the Federal Reserve System;

(C) That is payable:

- (1) On a specified date not less than two business days after the date of deposit;
- (2) Upon expiration of a specified period of time not less than two business days after the date of deposit; or
- (3) Upon written notice that actually is required to be given by the depositor not less than two business days prior to the date of withdrawal;

(D) That represents funds deposited to the credit of a non-United States resident of a foreign branch, office, subsidiary, affiliate, or other foreign establishment ("foreign affiliate") controlled by one or more domestic corporations; provided that such funds are used only to support the operations outside the United States of the depositor or of its affiliates located outside the United States; and

(E) That is maintained under an agreement or arrangement under which no deposit or withdrawal of less than \$100,000 is permitted, except that a withdrawal of less than \$100,000 is permitted if such withdrawal closes an account.

§ - International banking facilities, establishment of; notice to bank examiner, quarterly reports. (a) Except for federal law, any other law to the contrary notwithstanding, any bank organized under chapter 403, or savings and loan association subject to chapter 407, may establish one or more international banking facilities for the purpose of:

- (1) Making, arranging for, placing, or servicing loans to foreign persons; provided that in the case of a foreign person which is an individual, or which is a foreign branch of a domestic corporation (other than a bank), or which is a foreign corporation or foreign partnership which is

eighty per cent or more owned or controlled, either directly or indirectly, by one or more domestic corporations (other than a bank), domestic partnership, or resident individual, all the proceeds of the loan shall be for use outside of the United States;

- (2) Making or placing deposits of foreign persons which are banks or foreign branches of banks (including foreign subsidiaries or foreign branches of the taxpayer) or with other international banking facilities;
- (3) Entering into foreign exchange trading or hedging transactions related to any other transactions described in this paragraph; and
- (4) Accepting deposits from foreign persons.

(b) International banking facilities may be located in any county.

(c) At least fourteen days prior to the first reserve computation period that any institution intends to establish an international banking facility, the institution shall provide the bank examiner with a copy of the statement of intention required under Regulation D (12 CFR Part 204) of the Board of Governors of the Federal Reserve System.

(d) An institution which establishes an international banking facility shall provide the bank examiner with a copy of each quarterly report concerning the operations of its international banking facility which is required under Regulation D (12 CFR Part 204) of the Board of Governors of the Federal Reserve System."

SECTION 3. Chapter 241, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"§241- Deduction from entire net income. There shall be allowed as a deduction from entire net income to the extent not deductible in determining federal taxable income, the adjusted eligible net income of an international banking facility, as defined in chapter , part , determined as follows:

- (1) The eligible net income of an international banking facility shall be the amount remaining after subtracting from the eligible gross income the applicable expenses.
- (2) Eligible gross income shall be the gross income derived by an international banking facility from:
 - (A) Making, arranging for, placing, or servicing loans to foreign persons; provided that in the case of a foreign person which is an individual, or which is a foreign branch of a domestic corporation (other than a bank), or which is a foreign corporation or foreign partnership which is eighty per cent or more owned or controlled, either directly or indirectly, by one or more domestic corporations (other than a bank), domestic partnership, or resident individual, substantially all the proceeds of the loan shall be for use outside of the United States;
 - (B) Making or placing deposits with foreign persons which are banks or foreign branches of banks (including foreign subsidiaries or foreign branches of the taxpayer) or with other international banking facilities; or
 - (C) Entering into foreign exchange trading or hedging transactions related to any of the transactions described in this paragraph.

- (3) Applicable expenses shall be any expense or other deduction attributable, directly or indirectly, to the eligible gross income described in paragraph (2).
- (4) Adjusted eligible net income shall be determined by subtracting from eligible net income the ineligible funding amount, and by subtracting from the amount then remaining the floor amount.
- (5) The ineligible funding amount shall be the amount, if any, determined by multiplying eligible net income by a fraction, the numerator of which is the average aggregate amount for the taxable year of all liabilities, including deposits, and other sources of funds to the international banking facility which were not owed to or received from foreign persons, and the denominator of which is the average aggregate amount from the taxable year of all liabilities, including deposits and other sources of funds of the international banking facility.
- (6) The floor amount shall be the amount, if any, determined by multiplying the amount remaining after subtracting the ineligible funding amount from the eligible net income by a fraction, not greater than one, which is determined as follows:
 - (A) The numerator shall be:
 - (i) The percentage, as set forth in subparagraph (C), of the average aggregate amount of the taxpayer's loans to foreign persons and deposits with foreign persons which are banks or foreign branches of banks, or savings and loan associations or foreign branches of savings and loan associations, as the case may be, (including foreign subsidiaries or foreign branches of the taxpayer), which loans and deposits were recorded in the financial accounts of the taxpayer for its branches, agencies, and offices within the State for taxable years 1980, 1981, and 1982, minus;
 - (ii) The average aggregate amount of such loans and such deposits for the taxable year of the taxpayer (other than such loans and deposits to an international banking facility); provided that in no case shall the amount determined in this clause exceed the amount determined in this subparagraph; and
 - (B) The denominator shall be the average aggregate amount of the loans to foreign persons and deposits with foreign persons which are banks or foreign branches of banks, including foreign subsidiaries or foreign branches of the bank, (or savings and loan associations, as the case may be) which loans and deposits were recorded in the financial accounts of the taxpayer's international banking facility for the taxable year.
 - (C) The percentage shall be one hundred per cent for the first taxable year in which the taxpayer establishes an international banking facility and for the next succeeding four taxable years. The percentage shall be eighty per cent for the sixth, sixty per cent for the seventh, forty per cent for the eighth, and twenty per cent for

the ninth and tenth taxable years next succeeding the year such bank or savings and loan association establishes such facility, and zero in the eleventh succeeding year and thereafter.

- (7) If adjusted eligible net income is a loss, the amount of such loss shall be added to entire net income.
- (8) As used in this section, the term "foreign person" means:
 - (A) An individual who is not a resident of the United States,
 - (B) A foreign corporation, a foreign partnership, or a foreign trust, as defined in section 7701 of the federal Internal Revenue Code of 1954, as amended, other than a domestic branch thereof,
 - (C) A foreign branch of a domestic corporation (including the taxpayer),
 - (D) A foreign government or an international organization or an agency of either, or
 - (E) An international banking facility.

For the purposes of this paragraph, the term "foreign" and "domestic" have the same meaning as set forth in section 7701 of the federal Internal Revenue Code of 1954, as amended."

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 279

H.B. NO. 866

A Bill for an Act Relating to the Unauthorized Removal of Shopping Devices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 633, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§633- Unauthorized removal of shopping carts, etc.; notice; exceptions. (a) A person shall not remove, without proper authorization, a shopping cart, shopping basket, or similar device from the premises of any business establishment, including any parking area maintained for the customer of the business establishment, or any sidewalk or passageway adjacent to the business establishment, for any purpose whatsoever.

(b) This section shall not apply unless:

- (1) The shopping cart, shopping basket, or other similar device has securely affixed to it a conspicuous sign identifying it as belonging to the business establishment; and
- (2) There is posted at the place or places where the shopping carts, shopping baskets, or other similar devices are stored for customer use, a sign or signs conspicuously positioned in order to be seen by an

ordinarily observant person, to notify customers and the general public that the carts, baskets, or devices shall not be removed from the premises, parking areas, sidewalks, or passageways adjacent thereto.

- (c) The following shall not be subject to this section:
 - (1) The owner of the shopping cart, shopping basket, or similar device;
 - (2) Any agent of the owner;
 - (3) Any employee of the business establishment;
 - (4) Any person possessing the written consent of the owner or manager of the business establishment.
- (d) Any business establishment which is damaged in its business or property by reason of a violation of subsection (a):
 - (1) May sue in the small claims division of the district court in the circuit where the business establishment is situated for damages sustained, and if the judgment is for the business establishment, it may be awarded a sum equal to the replacement value of the shopping cart, shopping basket, or similar device together with the costs of the suit; and
 - (2) May bring proceedings to enjoin further unauthorized removal of shopping carts, shopping baskets, or similar devices.
- (e) In the case of repossession proceedings, the business establishment entitled to the possession of the shopping cart, shopping basket, or other similar device, shall bring and prosecute its action in the small claims division of the district court in the circuit where the business establishment is situated.
- (f) The court in the small claims division shall grant judgment in favor of the business establishment if:
 - (1) The plaintiff is the lawful owner of the shopping cart, shopping basket, or similar device which has been adequately identified;
 - (2) The plaintiff has given notice as provided in subsection (b)(2) that the unauthorized removal of shopping carts, shopping baskets, or similar devices is prohibited;
 - (3) The shopping device has been removed from the premises of the business establishment without proper authorization; and
 - (4) The defendant is in possession or has control of the shopping devices.
- (g) A person who has been found by court to have removed, without proper authorization, a shopping cart, shopping basket, or similar device may be liable for payment of an award under this section or a criminal fine under section 706-640, but not both."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon approval.

(Approved June 14, 1983.)

Note

- 1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Hemophilia.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that hemophilia, a hereditary genetic disease characterized by delayed blood clotting, is a catastrophic disease for which, however, there is effective treatment enabling sufferers of the disease to lead normal, productive lives. The costs of such treatment, however, impose a heavy financial burden on individuals afflicted with the disease and their families. According to a study by the department of health, medical expenses averaged \$9,683 per person annually between 1976 and 1980. Health insurance covers only a part of the costs of the frequent blood and plasma concentrates required by hemophiliacs. Further, the costs of treatment increase dramatically with additional transfusions necessitated by surgery, accidental injury, or other medical complications.

Although persons suffering from hemophilia have been afforded some financial relief through grants-in-aid provided in the past by the legislature to the Hemophilia Foundation of Hawaii, the legislature finds that an ongoing state program of financial assistance is a more effective alternative. The purpose of this Act, therefore, is to establish a financial assistance fund for the hemophilia-related medical care and treatment of persons in this State suffering from hemophilia.

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . HEMOPHILIA

§321- Financial assistance fund for hemophilia. There is established within the department of health a financial assistance fund for persons suffering from hemophilia who require hemophilia-related medical care and treatment, but who are unable to pay the entire costs of such medical care and treatment.

§321- General duties of the department. The department of health shall:

- (1) Provide financial assistance, within the limits of available funds in the financial assistance fund, for the medical care and treatment of persons suffering from hemophilia who meet the standards of eligibility established by the department; provided that the department may contract with a private, nonprofit organization to carry out this function;
- (2) Establish standards of eligibility for the financial assistance provided under this part; and
- (3) Adopt any necessary rules pursuant to chapter 91 to implement this part."

SECTION 3. This Act shall take effect on July 1, 1983.

(Approved June 14, 1983.)

A Bill for an Act Relating to Responsibility and Fitness of Defendant.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 704-411, Hawaii Revised Statutes, is amended to read:

"§704-411 Legal effect of acquittal on the ground of physical or mental disease, disorder, or defect excluding responsibility; commitment; conditional release; discharge; procedure for separate post-acquittal hearing. (1) When a defendant is acquitted on the ground of physical or mental disease, disorder, or defect excluding responsibility, the court shall, on the basis of the report made pursuant to section 704-404, if uncontested, or the medical evidence given at the trial or at a separate hearing, make an order as follows:

- (a) The court shall order him to be committed to the custody of the director of health to be placed in an appropriate institution for custody, care, and treatment if the court finds that the defendant presents a risk of danger to himself or [the person or property of] others and that he is not a proper subject for conditional release; [or] provided that the director of health shall place defendants charged with misdemeanors or felonies not involving violence or attempted violence in the least restrictive environment appropriate in light of the defendant's treatment needs and the need to prevent harm to the person confined and others; or
- (b) The court shall order the defendant to be released on such conditions as the court deems necessary if the court finds that the defendant is affected by physical or mental disease, disorder, or defect and that he presents a danger to himself or [the person or property of] others, but that he can be controlled adequately and given proper care, supervision, and treatment if he is released on condition; or
- (c) The court shall order him discharged from custody if the court finds that the defendant is no longer affected by physical or mental disease, disorder, or defect, or, if so affected, that he no longer presents a danger to himself or [the person or property of] others and is not in need of care, supervision, or treatment.

(2) The court shall, upon its own motion or on the motion of the prosecuting attorney or the defendant, order a separate post-acquittal hearing for the purpose of taking evidence on the issue of the risk of danger which the defendant presents to himself or [the person or property of] others.

(3) When ordering such a hearing the court shall appoint three qualified examiners to examine and report upon the physical and mental condition of the defendant. In each case the court shall appoint at least one psychiatrist and at least one certified clinical psychologist. The third member may be either a psychiatrist, certified clinical psychologist, or a qualified physician. One of the three shall be a psychiatrist or certified clinical psychologist designated by the director of health from within the department of health. To facilitate such examination and the proceedings thereon, the court may cause the defendant, if not then so confined, to be committed to a hospital or other suitable facility for the purpose of examination

and may direct that qualified physicians retained by the defendant be permitted to witness and participate in the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 704-404(3), (4)(a) and (b), (6), (7), (8), and (9).

(4) Whether the court's order under subsection (1) is made on the basis of the medical evidence given at the trial, or on the basis of the report made pursuant to section 704-404, or the medical evidence given at a separate hearing, the burden shall be upon the State to prove, by a preponderance of the evidence, that the defendant may not safely be discharged and that he should be either committed or conditionally released as provided in subsection (1)."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

ACT 282

H.B. NO. 890

A Bill for an Act Relating to Child Passenger Restraints.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 291, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§291- Child passenger restraints. (a) Except as otherwise provided in this section, no person operating a motor vehicle on a public highway in the State shall transport a child under four years of age except under the following circumstances:

- (1) If the child is under three years of age, the person operating the motor vehicle shall ensure that the child is properly restrained in a child passenger restraint system approved by the United States Department of Transportation at the time of its manufacture; or
- (2) If the child is three years of age or older but less than four years of age, the person operating the motor vehicle must either ensure that the child is properly restrained in a child passenger restraint system approved by the United States Department of Transportation at the time of its manufacture or ensure that the child is restrained by a seat belt assembly.

(b) Operators of the following motor vehicles shall be exempt from the requirements of this section: Emergency, commercial, for hire, and mass transit vehicles and Type I school buses. Further exemptions from this section may be established by the department of transportation pursuant to rules adopted under chapter 91.

(c) This section shall not apply if the number of persons in a vehicle exceeds the greater of the following:

- (1) The number of seat belt assemblies available in the vehicle; or

(2) The number of seat belt assemblies originally installed in the vehicle; provided that all available seat belt assemblies are being used to restrain a passenger, and those children not restrained by an approved child passenger restraint system or a seat belt assembly are in the back seat of the motor vehicle.

(d) In no event shall failure of a child under the age of four years to be restrained or failure to restrain such a child in a child passenger restraint system or a seat belt assembly be considered as contributory negligence, comparative negligence, or negligence per se.

(e) Any person violating this section shall be guilty of a violation and subject to the penalties of section 291C-161(b)."¹

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end, the provisions of this Act are severable.

SECTION 3. This Act shall take effect July 1, 1983.

(Approved June 14, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 283

S.B. NO. 4

A Bill for an Act Relating to Capital Improvement Projects and Making Appropriations Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. This Act shall be known and may be cited as the Capital Improvements Act of 1983.

SECTION 2. The following sums or so much thereof as shall be sufficient to finance the projects herein contained, are hereby authorized for fiscal year 1983-84 to be expended by the department of accounting and general services, unless otherwise specified in this section, out of moneys in the treasury received from general obligation bond funds.

I. COUNTY OF HAWAII

C. Department of Land and Natural Resources

(To be expended by the Department of Land and Natural Resources)

1.	Fin Fish Rearing Facility, Hawaii	50,000
	Funds for a fin fish-rearing facility in Hilo, Hawaii.	
2.	Floating Fish Pen, Hawaii	10,000
	Funds for a floating fish pen to be tested in a freshwater pond near Hilo, Hawaii.	
3.	Kuka'ilimoku-Kona, land acquisition	15,000
	Funds for appraisal, negotiations, acquisition and exchange of lands known as Kuka'ilimoku-Kona, adjacent to old Kona Airport State Park.	
4.	Lapakahi North Kohala State Park Complex	70,000
	Development of the North Kohala archaeological and historic sites.	
5.	Lapakahi North & South Kohala State Park Complex	80,000

	Funds for land acquisition and incremental development of the North and South Kohala archaeological and historic sites, including Lapakahi.	
6.	Water Resources, Districts of Hamakua and Waimea, Hawaii Funds for feasibility study and development.	70,000
D.	Department of Transportation (To be expended by the Department of Transportation)	
1.	Drainage Improvement, Kapaau, Hawaii Funds for drainage improvements at Kapaau, Hawaii.	25,000
2.	Kawaihae Boat Harbor and/or Puako Ramp, Hawaii Funds for comfort station facilities.	30,000
3.	Comfort Stations at Kawaihae Boat Harbor and/or Puako Ramp, Hawaii Funds for construction of comfort stations at Kawaihae Boat Harbor and/or Puako Ramp, Hawaii.	30,000
4.	Safety Improvement to Existing Kawaihae Road, Hawaii Funds for construction of safety improvements to existing Kawaihae Road to Waika junction, Hawaii.	100,000
5.	South Kulani Road, Puna, Hawaii Preliminary survey to upgrade South Kulani Road to county standards.	5,000
E.	Department of Education	
1.	Honokaa High and Elementary School, Kohala High and Elementary School, Laupahoehoe High and Elementary School, Hawaii Funds for new greenhouse, appurtenances and purchase of agriculture equipment.	25,000
2.	Honokaa High & Elementary School, Kohala High and Elementary School, Laupahoehoe High and Elementary School, Hawaii Funds for construction of new greenhouse, and renovation of animal processing room, appurtenances and purchase of agriculture equipment.	40,000
3.	Konawaena Intermediate and High School, Hawaii	
	a. Funds for an all-weather athletic track field.	25,000
	b. Installation of solar heating for swimming pool.	40,000
	c. Funds for corrective measures on excessive noise problems in the cafeteria.	45,000
4.	Mountain View Elementary and Intermediate School, Hawaii Funds for walkway, shelter, and parking area.	20,000
5.	Waiakeawaena Elementary School, Hawaii Funds for a new library at Waiakeawaena Elementary School, Hilo, Hawaii. Unexpended funds from item G-16 of Act 1, 1st Sp. SLH 81, may be used for this project.	625,000
6.	Waiakeawaena Elementary School, Hilo, Hawaii Funds for construction of library facilities and appurtenances.	350,000
G.	Department of Defense (To be expended by the Department of Defense)	
1.	Rifle range, Keaukaha, Hawaii Funds for construction of a National guard rifle range and hunter safety area at Keaukaha, Hawaii.	50,000
M.	Department of Accounting and General Services (To be expended by the Department of Accounting and General Services)	
1.	Alii Drive, Kailua Village, Hawaii Funds for construction of wheelchair ramps on Alii Drive, Kailua Village.	20,000
W.	County of Hawaii (To be expended by the County of Hawaii)	
1.	Hilo-Hawaiian Beaches Beach Road, Puna, Hawaii Funds to develop an alternate route from the vicinity of Hawaiian Beaches to Hilo.	10,000
2.	Kahei House Lot Drainage Project Funds for construction of a drainage system and storm culverts for the Kahei subdivision, Kohala, Hawaii.	100,000

	3.	Papaaloa Elderly Housing Project Funds for renovation and conversion of teachers' cottages.	50,000
WW.		County of Hawaii (To be expended by the Department of Water Supply)	
	1.	Water Resources, Island of Hawaii Feasibility study and development including wells, pumps and/or storage reservoirs for firefighting purposes.	75,000
	2.	Water Storage Facility in the Hawaiian Ocean View Estates, Kau, Hawaii Funds for emergency use water storage facility.	40,000
	3.	Hawaii County Water Projects	
	a.	Funds for South Kona Water System Extension, Captain Cook-Napoo- poo, Hawaii—Incremental development of South Kona water system project which includes installation of 8 inch pipeline.	70,000
	b.	Funds for Ocean View Water Storage Improvements.	20,000
	c.	Funds for Puna Wells Improvements	10,000
II.		COUNTY OF MAUI	
A.		Department of Agriculture	
	1.	Molokai Agricultural Park, Molokai Funds for second phase of Molokai Agricultural Park subdivision.	100,000
D.		Department of Transportation (To be expended by the Department of Transportation)	
	1.	Haleakala Highway, Pukalani, Maui Installation of traffic signals on Haleakala Highway at Pukalani Street.	250,000
	2.	Hana Highway, Paia, Maui Drainage improvements to alleviate flooding problems at intersection of Hana Highway and Baldwin Avenue. Easement and right-of-way acqui- sition of affected storm drain. Drainage system improvements to prevent further flooding of commercial establishments and residential areas along Hana Highway.	75,000
	3.	Keomuku Road, Lanai Funds for grading and repair of Keomuku Road at Lanai, Hawaii.	5,000
	4.	Road Shoulder Improvements, Wailuku, Maui Pavement of 1.6 miles of road shoulder on stretch of road between Maalaea Small Boat Harbor and intersection of Honoapiilani and Kuihelani Highways.	50,000
	5.	Boat Ramp, Molokai Site selection study for boat ramp on east end.	35,000
E.		Department of Education (To be expended by Department of Education)	
	1.	Hana Gym, Maui Funds for construction of a gym at Hana Elementary and High School.	200,000
	2.	Kaunakakai School, Molokai	
	a.	Funds for custodial storage and work room.	14,250
	b.	Funds for site preparation of playfield.	14,250
	3.	Molokai High and Intermediate School, Molokai Funds for counselor's office and conference room.	50,000
	4.	Lahainaluna Boarding School, Lahaina, Maui Funds for a security alarm system.	6,500
	5.	Lahainaluna High School, Maui Installation of buzzer security system for girls' dormitory.	14,000
G.		Department of Defense	
	1.	Kilohana School-Civil Defense Facility, Molokai Improvements to kitchen/cafeteria facilities.	49,000
H.		Department of Health	
	1.	Kula Hospital, Maui Renovation and expansion of former residential wards.	25,000
M.		Department of Accounting and General Services	

(To be expended by the Department of Accounting and General Services)

1. State Office Building, Kahului, Maui 50,000
Funds for state office building to be situated on property designated as TMK 3-7-04:03.
2. State Office Building Annex Site, Kahului, Maui 75,000
Land acquisition for State Office Building Annex to be situated on property designated as TMK 3-7-04:03.

V. County of Maui

(To be expended by the County of Maui)

1. Cameron Center, Maui 50,000
Downstairs Interim Expansion Project. Grant-in-aid for the County of Maui.
2. Community Center, Wailuku, Maui 100,000
Funds for community center.
3. Dole Park, Lanai City, Lanai 10,000
Funds for installation of ball-field lights and other appurtenances.
4. Eddie Tam Memorial Center, Maui 25,000
Funds for swimming pool.
5. Kahului Convention Center, Kahului, Maui 200,000
Funds for construction of a large meeting hall with kitchen facilities, equipment and other appurtenances in Kahului, Maui.
6. Wailuku Community Center, Wailuku, Maui 150,000
Funds to construct a community center at Wailuku, Maui.

III. CITY AND COUNTY OF HONOLULU

A. Department of Agriculture

(To be expended by the Department of Agriculture)

1. Agricultural Production, Oahu 60,000
Funds for a study to assess the real property identified as TMK 4-2-06:01, 4-2-08:01, and 4-2-09:01, and any necessary surrounding real property as to its suitability for agricultural production.

C. Department of Land and Natural Resources

(To be expended by the Department of Land and Natural Resources)

1. Aiea Rainbow Bay State Park, Aiea 50,000
Funds for construction of a fishing pier and boat launching ramp.
2. Ala Wai Canal, Oahu 50,000
Funds for repair and improvement.
3. Diamond Head State Monument, Oahu
 - a. Demolition and removal of abandoned buildings, and installation of replacement landscaping along Diamond Head Road and Monsarrat Avenue. 40,000
 - b. Placement of utility lines underground along Diamond Head Road and Monsarrat Avenue. 20,000
4. Diamond Head State Monument, Oahu
 - a. Demolition and removal of abandoned buildings, and installation of replacement landscaping along Diamond Head Road and Monsarrat Avenue. 25,000
 - b. Placement of utility lines underground along Diamond Head Road and Monsarrat Avenue. 25,000
5. Fort Armstrong-Kewalo (Kakaako) Shorefront Park 250,000
Funds for development of oceanfront park and facilities.
6. Kaiaka State Park, Oahu 15,000
Tree trimming, topping and clearing of dead trees.
7. Malaekahana State Park, Oahu 2,600
Tree trimming and debris clearing.
8. Moanalua Park, Oahu 150,000
Funds for construction and equipment for improvements to Moanalua Park, Oahu.

9.	Queen's Beach, Oahu Funds for acquisition of Queen's Beach, Waikiki, Oahu.	100,000
10.	Waianae District Agricultural Water Project, Oahu Funds for exploration and development of water sources for agricultural purposes in the Waianae-Nanakuli area.	75,000
11.	Wahiawa Fresh Water Park, Oahu Funds for a jogging path.	10,000
12.	Waimanalo State Park, Oahu Funds for next increment.	50,000
13.	Waimanalo State Park, Oahu Funds for reconstruction of park facilities.	55,000
D.	Department of Transportation (To be expended by the Department of Transportation)	
1.	Ala Moana Boulevard Median Strip between the Ala Wai Canal Bridge and Kalakaua Avenue Funds for landscaping and additional sprinkler system capability.	50,000
2.	Ala Wai Canal, Oahu Funds for repair of retaining walls at Ala Wai Canal, Oahu.	145,000
3.	Kalihi and Kaumualii Streets, Oahu Funds for traffic light at intersection.	110,000
4.	Kahekili Highway Sound Barrier a. Funds for sound barrier in the vicinity of Kulukeoe Street. b. Funds for sound barrier in the vicinity of Kahuhipa Street.	60,000 25,000
5.	Kalaniana'ole Highway and Wailupe Circle, Oahu Funds for traffic signal lights at the intersection.	125,000
6.	Kamehameha Highway, Oahu Funds for paving and drainage improvements, Kahana Bay to intersection of Kahekili and Kamehameha Highways.	150,000
7.	Kamehameha Highway, Laie Maloo Bridge, Oahu Funds for construction of pedestrian footbridge.	50,000
8.	Keehi Boat Harbor, Oahu Funds for construction of improvements to Keehi Boat Harbor including paving, lighting and trailer parking.	160,000
9.	Saddle Road Bridge, Waimanalo, Oahu Funds for materials to complete construction.	5,000
10.	Salt Lake Boulevard, Oahu Funds for construction of traffic improvements along Salt Lake Boulevard.	150,000
11.	Waianae Valley Road, Oahu Funds for construction and other improvements. (Funds may be transferred from construction to planning and/or design as may be necessary).	275,000
12.	Whitmore, Oahu Funds for construction of Four Foot walkway from Whitmore to Kamehameha Highway.	245,000
E.	Department of Education	
1.	August Ahrens Elementary School, Oahu Funds for an eight classroom building.	50,000
2.	Aiea High School, Oahu Funds for multi-purpose building.	50,000
3.	Aiea Intermediate School, Oahu Funds for improvements to playcourt area	50,000
4.	Aina Haina Elementary School, Oahu Funds for lighting for parking lot.	10,000
5.	Aliamanu Elementary School, Oahu Funds for the repainting of the exterior of buildings A, B, C, D, E, and F.	53,000
6.	Aliamanu Intermediate School, Oahu Funds for a play court.	20,000
7.	Ben Parker Elementary School, Oahu	10,000

	Funds for improvements	
8.	James Campbell High School, Oahu Funds for renovation of Industrial Arts building.	114,000
9.	James Campbell High School, Oahu Funds for new security screens for 1st floor windows	75,000
10.	Castle High School, Oahu Funds for improvements to school facilities, including PE and athletic facilities	115,000
11.	Dole Intermediate School, Oahu	
	a. Funds to improve parking facilities.	30,000
	b. Funds to improve windows in shops 1 and 2.	10,000
12.	Farrington High School, Oahu Funds for construction of a gymnastic facility	165,000
13.	Farrington High School, Oahu	
	a. Funds for a retaining wall	85,000
	b. Funds for security screens	30,000
14.	Haleiwa Elementary School, Oahu Funds for chain link fence and gate for security purposes.	2,260
15.	Haleiwa Elementary School, Oahu Funds for restoration of the Old Haleiwa Elementary School, Building "A"	75,000
16.	Haleiwa Elementary School, Oahu Funds for the repair of the existing Parking Area	15,000
17.	Hauula Elementary School, Oahu Funds for drainage improvements to campus and grounds.	60,000
18.	Honowai Elementary School, Oahu Installation of a chain link fence and fire escape walkway	17,600
19.	Ilima Elementary School, Oahu Funds for security measures.	5,000
20.	Iroquois Point Elementary School, Oahu Funds for security measures.	5,000
21.	Jefferson Elementary School, Oahu Funds for construction of play courts	80,000
22.	Kaaawa Elementary School, Oahu Relocation and improvements to portable classroom.	40,000
23.	Kaewai Elementary School, Oahu Funds for ground improvements.	25,000
24.	Kahala Elementary School, Oahu Installation of approximately 150 yards of chain link fence and gate to separate school grounds from City and County's Kahala Playground.	15,000
25.	Kahala Elementary School, Oahu Funds for improvement, renovation and expansion of existing facilities.	50,000
26.	Kailua High School, Oahu Funds for improvements to athletic facilities, including gymnasium	20,000
27.	Kailua High School, Oahu	
	a. Funds for an access road.	125,000
	b. Funds to resurface and regrade athletic track, football field, baseball field, and gym floor and to replace damaged gym equipment.	25,000
28.	Kailua Intermediate School, Oahu Funds for renovation of library.	200,000
28a.	Kailua Elementary School, Oahu Funds for perimeter fencing.	20,000
29.	Kaimiloa Elementary School, Oahu Funds for security measures.	5,000
30.	Kaimuki High School, Oahu Funds for PE and athletic locker rooms—Boys.	200,000
31.	Kaiser High School, Oahu	
	a. Funds for installation of security screens.	23,000

	b. Funds to renovate classrooms for a Computer Lab Center	15,000
	c. Funds for renovation and construction of science labs.	40,000
32.	Kalakaua Intermediate School, Oahu	
	a. Extension of chain link fence.	50,000
	b. Funds for new window frames in Building L.	10,000
33.	Kalani High School, Oahu	100,000
	Funds for improvement, renovation and expansion of existing facilities.	
34.	Kalani High School, Oahu	
	a. Funds for improvement, renovation, and expansion of existing facilities.	75,000
	b. Funds for locker facilities.	65,000
35.	Kalihi Elementary School, Oahu	
	a. Funds for communication systems.	50,000
	b. Funds for the installation of metal railing extensions on the third floor of Buildings A and B.	25,000
	c. Funds for extending the existing roofline of the school cafeteria to cover the walkway from the curb to the main entrance.	25,000
36.	Kamiloiki Elementary School, Oahu	60,000
	Funds for installations of classroom partitions.	
37.	Kaneohe Elementary School, Oahu	70,000
	Funds for improvements to school facilities, including renovations and noise abatement	
38.	Kapalama Elementary School, Oahu	
	a. Funds for covered walkways between cafeteria and building B, cafeteria and library, cafeteria and kindergarten building, and building C and administration building.	113,000
	b. Funds for enclosure of kindergarten building patio.	9,000
39.	Kapalama Elementary School, Oahu	25,000
	Funds for construction of covered walkways	
40.	Kapunahala Elementary School, Oahu	90,000
	Funds for improvements to classroom buildings and library, including air conditioning	
41.	Kauluwela Elementary School, Oahu	5,000
	Installation of a chain link fence.	
42.	Kawananakoa Intermediate School, Oahu	30,000
	Funds for installation of security screens for Buildings J, K and A.	
43.	Keolu Elementary School, Oahu	15,000
	Funds for improvements to covered walkways	
44.	King Intermediate School, Oahu	24,000
	Funds for improvements to traffic circulation facilities	
45.	Kipapa Elementary School, Oahu	100,000
	Funds for a covered walkway between the cafeteria, office and campus.	
46.	Kuhio Elementary School, Oahu	100,000
	Funds for the installation of drywalls in Building H.	
47.	Kuhio Elementary School, Oahu	20,000
	Funds for an endurance track at Kuhio Elementary School	
48.	Lanakila Elementary School, Oahu	
	a. Funds for fencing of pre-school play area.	4,000
	b. Funds for fencing on boundary.	5,000
49.	Lanikai Elementary School, Oahu	
	a. Funds for renovation of building A, learning center, library and conference room, and cafeteria, and replacement of broken windows and screens.	5,000
	b. Funds for bicycle lane from school entrance to bike racks and new crosswalk from parking lot to office building.	5,000
50.	Lehua Elementary School, Oahu	20,000
	Funds for expansion of egress road, relocation of flag pole, paving for former flag pole circle, and painting to designate parking stalls.	

51.	Leilehua High School, Oahu	
	a. Funds for a multi-purpose auditorium.	10,000
	b. Funds for a swimming pool.	20,000
52.	Liholiho School, Oahu	25,000
	Funds for construction and improvements to the cafetorium at Liholiho School.	
53.	Maemae Elementary School, Oahu	
	a. Funds for fencing along Maemae Lane to cordon off the second and third grade playground area.	2,000
	b. Replacement of incandescent lights with fluorescent lights in ten classrooms.	30,000
	c. Improvements to parking and driveway facilities.	5,000
	d. Funds for improvements to parking and driveway facilities.	6,000
54.	Maemae Elementary School, Oahu	7,000
	Funds for improvements to parking and driveway facilities	
55.	Makalapa Elementary School, Oahu	70,000
	Funds for a playcourt.	
56.	Manana Elementary School, Oahu	5,000
	Funds for wall-to-wall carpet installation.	
57.	Manoa Elementary School, Oahu	25,000
	Roof renovation.	
58.	Manoa Elementary School, Oahu	50,000
	Funds for improvements to drainage of school grounds.	
59.	Manoa Library, Oahu	25,000
	Replacement of a central air conditioning unit.	
60.	Manoa Valley Field, Oahu	100,000
	Funds for improvements to drainage of baseball section of field.	
61.	Mauka Lani School, Makakilo, Oahu	80,000
	Planning, engineering, and architectural services for a permanent cafetorium.	
62.	Maunawili Elementary School, Oahu	3,000
	Funds for improvements to school facilities	
63.	Mililani High School, Oahu	
	a. Funds for a covered walkway connecting "B" building to the school's library and cafeteria.	155,000
	b. Funds for a covered walkway connecting "B" building and the physical education shower rooms.	29,000
64.	Mililani-Uka Elementary School, Oahu	9,000
	Funds for a chainlink security fence and gate to divide the school campus from the adjoining city park.	
65.	Mililani-Waena Elementary School, Oahu	7,000
	Installation of security fencing.	
66.	Moanalua High School, Oahu	
	a. Funds for an outdoor patio "H" building.	20,000
	b. Funds for surfacing of walkway, from Science Building to Counseling Buildings.	5,000
67.	Nanakuli High School, Oahu	60,000
	Funds to allow for locker room improvements and renovation.	
68.	Niu Valley Intermediate School, Oahu	
	a. Funds for roadway from building F to the band building.	50,000
	b. Funds for installation of security screens.	12,000
69.	Palisades Elementary School, Oahu	20,000
	Funds for grounds improvement which includes grading, re-seeding, paving of a walkway, and fencing to restrict access of motor vehicles.	
70.	Palolo Elementary School, Oahu	100,000
	Funds for renovation and enlargement of library.	
71.	Pauoa Elementary School, Oahu	10,000

	Relocation of the main driveway.	
72.	Pauoa Elementary School, Oahu Funds for relocation of main driveway	10,000
73.	Pearl City High School, Oahu a. Funds for an athletic complex.	100,000
	b. Funds for athletic stadium complex master plan.	25,000
74.	Pearl City High School, Oahu Funds for installation of electrical power source for the baseball field.	12,000
75.	Pearl City High School Athletic Complex, Oahu Funds for a varsity shower and 5,000 seat concrete bleachers, including a ticket booth, video platform, toilets, lights, and sprinkler system.	88,000
76.	Pearl City Regional Library, Oahu Expansion of parking lot.	80,000
77.	Pearl Harbor Elementary School, Oahu Funds for a playcourt.	70,000
78.	Pearl Ridge Elementary School, Oahu Funds for library.	50,000
79.	Pohakea Elementary School, Oahu Security measures.	5,000
80.	Blanche Pope Elementary School, Oahu Funds for alarm system.	5,000
81.	Puohala Elementary School Funds for improvements.	3,000
82.	Radford High School, Oahu Funds for a darkroom.	40,000
83.	Radford High School, Oahu Funds for replacement of football field lights	50,000
84.	Roosevelt High School, Oahu a. Renovation of building "C" chemistry laboratory and classrooms.	75,000
	b. Renovation of building "C".	25,000
85.	Roosevelt High School, Oahu Funds for auditorium, including reconstruction of stage and rewiring of building.	100,000
86.	Salt Lake Elementary School, Oahu Funds for a metal school sign in front of the school.	1,000
87.	Salt Lake/Moanalua Community Library Funds for planning and design of the structure, also to cover other related costs incurred in the process to acquire the parcel contiguous to Aliamanu Intermediate & Elementary Schools (fronted by Salt Lake Boulevard & Arizona Road).	100,000
88.	Robert Louis Stevenson Intermediate School, Oahu Installation of security screens for the Physical Education and Industrial Arts buildings.	100,000
89.	Wahiawa Elementary School, Oahu Funds for a loading and unloading zone for Special Education	15,000
90.	Waialua Elementary School, Oahu Walkway covering for safety purposes.	35,700
91.	Waianae High School, Oahu a. Funds for six science, three business and one home economics classroom.	50,000
	b. Funds to expand cafeteria into a theatre.	100,000
92.	Waiau Elementary School, Oahu Funds for a dining room.	200,000
93.	Waikiki Elementary School, Oahu Installation of security screens over windows.	25,000
94.	Waikiki-Kapahulu Library and Adjoining Community Meeting Room, Oahu	150,000

	Funds for the installation of a comfort-conditioning system including sound treating and the installation of electronic filters.	
95.	Waimalu Elementary School, Oahu Funds for library expansion.	50,000
96.	Waimanalo Elementary and Intermediate School, Oahu Funds for renovation of cafeteria and equipment.	24,000
97.	Waipahu Elementary School, Oahu Funds for security measures.	5,000
98.	Waipahu Elementary School, Oahu Funds for improvements to Kahale Field	40,000
99.	Waipahu High School, Oahu Funds for on-campus lighting in parking lots and concourses.	15,000
100.	Waipahu Intermediate School, Oahu Funds for paved court and improvements to field	110,000
101.	Waipahu Intermediate School, Oahu Funds for design and construction of 11 classroom buildings	150,000
102.	Waipahu Intermediate School, Oahu Funds for security measures.	5,000
103.	Washington Intermediate School, Oahu a. Renovation of library.	75,000
	b. Funds for renovation of the home economics classroom.	125,000
	c. Funds for installation of security screens for buildings, including the cafetorium.	75,000
104.	Wilson Elementary School, Oahu Funds for lighting for parking lot.	10,000
105.	Wilson Elementary School, Oahu Funds for swimming pool design.	50,000
F.	University of Hawaii	
1.	Windward Community College, Oahu Installation of awnings over walkway and ramps for the handicapped and for replacement of spray-on acoustical ceilings in Lono, Kanaloa, Judd, Iolani, Haloa, and Eckerdt buildings.	75,000
H.	Department of Health (To be expended by the Department of Health)	
1.	Kahuku Hospital, Oahu Funds for modernization and renovation of Rothwell Wing.	124,440
2.	Kahuku Hospital, Oahu Funds for improvement and renovations.	150,000
K.	Department of Social Services and Housing	
1.	Hawaii Youth Correctional Facility Installation of a siren.	15,000
M.	Department of Accounting and General Services (To be expended by the Accounting and General Services)	
1.	Hawaii Youth Correctional Facility Funds for completion of gymnasium renovation.	30,000
2.	Hawaii Youth Correctional Facility Funds for construction of nursery building for agricultural and horticultural programs.	100,000
3.	Kailua Library, Oahu Funds for parking area and new access road.	40,000
4.	Kalaheo High School, Oahu Funds for security fencing and gate.	45,000
5.	Kalani High School, Oahu Funds for additional football field bleachers, ticket booths, girls' restroom, lighting and resurfacing of track field.	250,000
6.	Waimanalo Elementary and Intermediate School, Oahu Funds for construction of paved playcourt.	80,000

U. City and County of Honolulu

(To be expended by the City and County of Honolulu)

1.	Ala Wai Field, Honolulu, Hawaii	150,000
	Funds for a new recreational complex building and Ala Wai Field.	
2.	Alewa Multi-Purpose Community Center, Nuuanu, Oahu	188,000
	Funds for Community Center.	
3.	Aliamanu Park	20,000
	Funds for playcourt, racquetball court, tennis court, and basketball court.	
	Funds to be matched by the City and County of Honolulu.	
4.	Alewa Community Center	162,000
	Funds for community center.	
5.	Beretania Park	145,000
	Renovation of the recreation center and expansion of classrooms. The sum appropriated shall be matched with \$155,000 from the City and County of Honolulu.	
6.	Canoe Facility, Waimanalo	50,000
	Funds for canoe storage and repair facility and equipment.	
7.	City Bus Turnaround, Makakilo	63,000
	Funds for a city bus turnaround at the end of either Kikaha Street or Makakilo Drive.	
8.	Civic Center, Wahiwa	20,000
	Planning for a multi-purpose civic center.	
9.	Hoaloha Park, Salt Lake	40,000
	Funds for relocation of volleyball court and playground equipment to area adjacent to restroom facilities and purchase of additional playground equipment.	
10.	Kahaluu Regional/District Park	75,000
	Acquisition of land for a regional park.	
11.	Kaimuku-Kahala Community Facility	65,000
	Facility for senior citizen and community activity.	
12.	Kamehameha Field	69,000
	Installation of lights at makai softball field.	
13.	Kapalama Canal	200,000
	Funds for construction and other improvements to Kapalama Canal.	
14.	Kaupuni Neighborhood Park	30,000
	Funds for a comfort station/pavilion.	
15.	Komo Mai Drive	50,000
	Funds for sidewalk from end of paved area above Leeward Community Church to entry of Pacific Palisades.	
16.	Liliha Street between Vineyard Boulevard and School Street	10,000
	Installation of street lights.	
17.	Makakilo Recreation Center and Park, top of Makakilo Drive	75,000
	Funds for lights for playground.	
18.	Manoa Stream	50,000
	Funds for a flood and erosion control project.	
19.	Manoa Valley Recreation Center	25,000
	Funds for street lights for the parking lot.	
20.	Maunalani Park	50,000
	Extension of existing facilities and site improvements.	
21.	Maunalani Park	50,000
	Extension of existing facilities and site improvements.	
22.	Moanalua Recreation Center Area Tennis Courts	50,000
	Funds for the installation of lights.	
23.	Moanalua Road	200,000
	Funds to improve Moanalua Road between Pali Momi Street and Aiea Interchange.	
24.	Moanalua Road, Oahu	200,000

	Funds for improvements from Pali Momi Street to Aiea Interchange.	
25.	Moanalua Valley Neighborhood Park Funds for the development of the Park, including but not limited to leveling, grading, landscaping and grassing and improving the grounds with sprinklers and a parking area.	100,000
26.	Nuuanu Valley Park Multi-purpose building for senior citizens.	130,000
27.	Palolo Field Ground stabilization.	25,000
28.	Palolo Stream Funds for Palolo Stream channelization project.	150,000
29.	Palolo Stream Funds for Palolo Stream channelization project.	50,000
30.	Puuiwa-Laimi Multi-Purpose Neighborhood Center Nuuanu Valley, Oahu Funds for construction of Multi-Purpose Neighborhood Center.	145,000
31.	Puunui Park Playground Installation of lights for the volleyball court.	15,000
32.	Regional Lions Boys Club Community Center Funds for new youth facility.	145,000
33.	Salt Lake District Park Funds for a basketball and a volleyball court.	60,000
34.	Salt Lake District Park Funds for construction of a gymnasium that will complement existing and proposed recreational facilities.	100,000
35.	Senior Citizens Center, Wahiawa Funds for acquisition of the former Okimoto Drug Store site and building; plans, designs, and construction of senior citizens center.	130,000
36.	Senior Day Care Center, Kaneohe Funds for a senior day care center.	90,000
37.	17th Representative District Parks Grant-in-aid for parks' improvements.	50,000
38.	Sheridan Park, Honolulu, Hawaii Funds for improvements at Sheridan Park.	80,000
39.	Waianae Valley Road Funds for planning, land acquisition, widening, construction and other improvements.	100,000
40.	Waikiki Natatorium Funds for an environmental impact statement for the demolition of the Waikiki Natatorium.	100,000
41.	Waikiki War Memorial Park and Natatorium Development of peninsula park area at existing Natatorium site, including saltwater swimming and water sports facility.	100,000
42.	Waipahu Civic Center Funds for Waipahu Civic Center.	345,400
43.	Waipahu Civic Center, Waipahu Funds for design and construction of a civic center for the Waipahu community.	35,000
44.	Waipahu Uka Playground Funds for manager's drive; baseball diamond and backdrop.	50,000
45.	Wilikina Drive, Wahiawa Installation of street lights.	10,000
46.	Wilson Tunnel Funds for improvements of ventilation and lighting systems.	50,000

**UW. City and County of Honolulu
(To be expended by the Board of Water Supply)**

1.	Water Tank Pumping System, Lai Road, Oahu Funds for water tank pumping system.	25,000
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IV. COUNTY OF KAUAI

C. Department of Land and Natural Resources

(To be expended by the Department of Land and Natural Resources)

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|----|-------------------------------------------------------------------------------|---------|
| 1. | East Waiole Irrigation System | 100,000 |
| | Funds for repair and construction of irrigation system at Waiole, Kauai. | |
| 2. | Kekaha Town Drainage System | 50,000 |
| | Funds for design and construction of Kekaha Drainage system at Kekaha, Kauai. | |

D. Department of Transportation

(To be expended by the Department of Transportation)

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| 1. | Kuhio Highway, Kauai | 40,000 |
| | Funds for slope protection treatment on side slopes at Hanamalu. | |
| 2. | Kuhio Highway and Eha Street, Lihue, Kauai | 100,000 |
| | Funds for the widening and reinforcing of road shoulders and construction of curbs for safety purposes. | |
| 3. | Puhi Road and Kaumualii Highway, Lihue, Kauai | 100,000 |
| | Funds for sidewalks and curbs. | |

E. Department of Education

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|----|--------------------------------------------------------------------------------------------------------------------|--------|
| 1. | Hanalei Elementary School, Kauai | 15,000 |
| | Funds for access ramps for the handicapped to include the main building, cafeteria and special education building. | |
| 2. | Kilauea Elementary School, Kauai | 15,000 |
| | Funds for access ramps for the handicapped to include the main building and the cafeteria. | |

I. Department of Hawaiian Home Lands

(To be expended by the Department of Hawaiian Home Lands)

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|----|-----------------------------------------------------------|--------|
| 1. | Anahola Park Pavilion, Kauai | 30,000 |
| | Funds for enlarging, repairing, and making burglar proof. | |

M. Department of Accounting and General Services

(To be expended by the Department of Accounting and General Services)

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| 1. | Kapaa Sewer System | 200,000 |
| | Funds for planning and design of a sewer system in Kapaa, Kauai. | |

X. County of Kauai

(To be expended by the County of Kauai)

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|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 1. | Poipu Beach Park Extension, Kauai | 160,000 |
| | Funds for construction of Poipu Beach Park Extension; provided that funds shall not be made available under this request unless the County of Kauai provides \$160,000 as matching funds. | |

SECTION 3. The authorizations in section 2 of this Act include land purchase, plans, design, site preparation, improvements to land, construction, and necessary equipment.

SECTION 4. For any project jointly funded by state and county moneys, state funds shall be used only when the county provides at least its share.

SECTION 5. Where an agency is able to secure funds or other property from private organizations or individuals, to be expended or utilized in connection with any program authorized by this Act, the governor, or agency with the governor's approval, shall have the power to enter into each undertaking.

SECTION 6. If the State should assume direct operation of any nongovernmental agency receiving state funds under the provisions of this Act, all such funds shall constitute a credit to the State against the costs of acquiring all or any portion of the property, real, personal, or mixed, of such nongovernmental agency. The credit shall be applicable regardless of when such acquisition takes place.

SECTION 7. Any law or any provision of this Act to the contrary notwithstanding, all authorizations for capital improvement projects made for fiscal year 1983-1984 which are unencumbered as of June 30, 1986 shall lapse as of that date, and provided further, that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement if the legislature redetermines that such projects are essential.

SECTION 8. If general obligation bond proceeds have been allocated to an authorization which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such authorization, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other authorizations which may be satisfied from general obligation bond proceeds made in the same or any other act of the legislature; provided that a report of such allocations for the period ending December 31 of each calendar year shall be made to the legislature by February 1 of the following calendar year.

SECTION 9. The designated expending agency for capital investments authorized in this Act is authorized to delegate to other state or county agencies the acquisition of land, design, and construction of such projects when it is determined by such agency that it is advantageous to do so; provided that a report of all such delegations for the period ending December 31 of each calendar year shall be made to the first regular session of the legislature convened after such delegations have been made.

SECTION 10. Where county capital improvement projects are partially or totally funded by state funds as authorized in this Act or any other act of the legislature, this fact should be appropriately acknowledged during construction and upon completion of these projects.

SECTION 11. The negotiation for the purchase of land by state agencies shall be subject to the approval of the governor. Private lands may be acquired for the purpose of exchange for federal lands when the governor determines that such acquisition and exchange are necessary for the completion of any projects authorized in this Act.

SECTION 12. Any law or any provision to the contrary notwithstanding, the governor may supplement funds for any early-phased cost element (design or land) for a capital improvement project authorized under this Act by transferring such sums as may be needed from the funds authorized for later-phased cost elements (land or construction) for the same project authorized by the legislature in this Act or in a prior year or which may be authorized by the legislature in the future, provided that the total expenditure of funds for all cost elements for the project shall not exceed the total authorization for that project.

SECTION 13. Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a capital improvement project described in this Act, the governor may authorize such reduction of project scope; provided that the scope of a project shall not be reduced merely because the authorization for a project is insufficient.

SECTION 14. In releasing funds for projects, the governor shall consider the legislative intent and the objectives of the user agency, its programs, the scope and level of the user agency's intended services; the means, efficiency, and economics by which the project will meet the objectives of the user agency and the State. Agencies responsible for construction shall take into consideration the objectives of the user agency, its programs, the scope and level of the user agency's intended service and construct the improvement to meet the objectives of the user agency in the most efficient and economical manner possible.

SECTION 15. No authorization in this Act shall be considered to be a mandate under Article VIII, Section 5 of the State Constitution for a political subdivision to undertake new programs or to increase the level of services under existing programs of that political subdivision. If any authorization in this Act falls within the provision of Article VIII, Section 5 of the State Constitution, such authorization shall be void, and in the case of capital improvement authorizations designated to be financed from the general obligation bond fund, the total general obligation bonds authorized under section 2 of this Act shall be correspondingly decreased.

SECTION 16. In case the amount specified for any capital improvement project shall not be wholly required to complete the work of such project or after it is definitely found by the expending officer that not more than a specified amount will be required to complete such work, such unrequired amount may be expended with the approval of the governor for any other capital improvement project authorized by the legislature in this Act.

SECTION 17. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific authorization is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such authorization to the extent possible.

SECTION 18. If manifest clerical, typographical or other mechanical errors are found in this Act, the governor is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 19. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

ACT 284

S.B. NO. 236

A Bill for an Act Relating to Informed Consent.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 671-3, Hawaii Revised Statutes, is amended to read as follows:¹

[(a) In any action for medical tort based on an incident that occurred after January 1, 1977, based on the rendering of professional service without informed consent, evidence may be introduced that the health care provider complied with standards established by the board of medical examiners governing the information required to be given by or at the direction of the health care provider to a patient, or the patient's guardian in the case of a patient who is not competent to give informed consent.

(b) The board of medical examiners shall, insofar as practicable, establish reasonable standards of medical practice, applicable to specific treatment and surgical procedures, for the substantive content of the information required to be given and the manner in which it is given and in which consent is received in order to constitute informed consent from a patient or a patient's guardian. The standards shall include, but not be limited to, provisions which are designed to reasonably inform and to be understandable by a patient or a patient's guardian of:

- (1) The condition being treated;
- (2) The nature and character of the proposed treatment or surgical procedure;
- (3) The anticipated results;
- (4) The recognized possible alternative forms of treatment; and
- (5) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment or surgical procedure, and in the recognized possible alternative forms of treatment, including non-treatment.

The standards established by the board shall be prima facie evidence of the standards of care required but may be rebutted by either party.]

(a) The board of medical examiners, insofar as practicable, shall establish standards for health care providers to follow in giving information to a patient, or to a patient's guardian if the patient is not competent to give an informed consent, to insure that the patient's consent to treatment is an informed consent. The standards may include the substantive content of the information to be given, the manner in which the information is to be given by the health care provider and the manner in which consent is to be given by the patient or the patient's guardian.

(b) If the standards established by the board of medical examiners include provisions which are designed to reasonably inform a patient, or a patient's guardian, of:

- (1) The condition being treated;
- (2) The nature and character of the proposed treatment or surgical procedure;
- (3) The anticipated results;
- (4) The recognized possible alternative forms of treatment; and
- (5) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment or surgical procedure, and in the recognized possible alternative forms of treatment, including non-treatment,

then the standards shall be admissible as evidence of the standard of care required of the health care providers.

(c) On or before January 1, 1984, the board of medical examiners shall establish standards for health care providers to follow in giving information to a patient or a patient's guardian, to ensure that the patient's consent to the performance of a mastectomy is an informed consent. The standards shall include the substantive content of the information to be given, the manner in which the information is to be given by the health care provider and the manner in which consent is to be given by the patient or the patient's guardian. The substantive content of the information to be given shall include information on the recognized alternative forms of treatment.

[(c)] (d) Nothing in this section shall require informed consent from a patient or a patient's guardian when emergency treatment or emergency surgical procedure is rendered by a health care provider and the obtaining of consent is not reasonably feasible under the circumstances without adversely affecting the condition of the patient's health."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

Note

1. Section number and heading missing.

ACT 285

S.B. NO. 904

A Bill for an Act Relating to Fair Dealership Practices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
OFFICE MACHINE PRODUCTS DEALERSHIPS**

§ -1 **Definitions.** As used in this chapter:

- (1) “Dealer” means any person, corporation, partnership, association, association of dealers, or other form of business enterprise engaged in the business of selling products.
- (2) “Dealership” means any agreement, written or verbal, between a distributor and a dealer under which the dealer is granted the right, for a definite or indefinite period of time, to sell products on behalf of a distributor to consumers and other end-users.
- (3) “Distributor” means any person, corporation, partnership, or other form of business enterprise engaged in the sale, consignment,

exchange, or any other form of transfer of a product which it manufactures, assembles, constructs, creates, or obtains in any manner from a manufacturer.

- (4) "Products" includes, but is not limited to: typewriters, copiers, electronic cash registers, dictating equipment, calculators, offset printers, letter openers, computers, or word processing equipment, but does not include such items as pencils, erasers, stationery, paper clips, or other such miscellaneous material normally used in an office.

§ -2 **Exemption.** This chapter shall not apply to franchises as defined in section 482E-2.

§ -3 **Distribution of products; dealership required.** No distributor shall sell, consign, exchange, or otherwise transfer any product to any dealer for sale or resale in this State except by way of a dealership.

§ -4 **Wrongful or illegal termination; unreasonable nonrenewal; damages; defenses.** (a) Except as provided in section -5, a distributor shall be liable to a dealer who sells the products of the distributor under a dealership from the distributor for damages and such equitable relief as the court deems proper resulting from the wrongful or illegal termination or cancellation of the dealership during its term or the distributor's unreasonable refusal to renew the dealership.

(b) A dealer suffering damages as a result of the termination or cancellation of, or failure to renew, the dealership may bring an action under this section against the distributor who wrongfully or illegally terminated, canceled, or unreasonably refused to renew the dealership in the court of general jurisdiction of the dealer's principal place of business. The action may be brought without regard to the amount in controversy. If the dealer prevails in the action, the dealer may recover actual damages sustained, the costs of the suit, including reasonable attorney's fees, and such equitable relief as the court deems proper.

The court may also grant such temporary relief as it may deem necessary and proper.

(c) It shall be a defense to any action brought under this section that the dealership was terminated, canceled, or not renewed because:

- (1) The dealer failed to comply substantially with essential and reasonable requirements of the dealership;
- (2) The dealer failed to act in good faith in carrying out the terms and provisions of the dealership; or
- (3) Of any of the reasons enumerated in section -5; or
- (4) Of other legitimate business reasons; provided that a termination, cancellation, or failure to renew a dealership for the purpose of enabling the distributor to assume operation of the dealer's business shall not be considered to be a legitimate business reason unless the dealer is paid reasonable compensation for the value of the dealership, including good will.

(d) No action may be brought under this section for a cause of action which arose more than two years prior to the date on which the action is brought.

§ -5 **Notice of termination, cancellation, or nonrenewal.** A distributor shall not terminate, cancel, or refuse to renew a dealership with a dealer without first

giving written notice by certified mail at least ninety days in advance of the effective date of such action as set forth in the notice. Notwithstanding any provision to the contrary contained in this section, a distributor may terminate, cancel, or refuse to renew a dealership with a dealer effective five days after the posting of written notice by certified mail to the dealer at the dealer's last known address, if such action is based on any of the following reasons:

- (1) Voluntary abandonment of the dealership relationship by the dealer;
- (2) Conviction of the dealer of a crime involving the business conducted pursuant to the dealership; or
- (3) Adjudication of bankruptcy of the dealer, or the dealer becoming insolvent in the sense that the dealer cannot meet financial obligations when due.

§ -6 **Exceptions.** No action may be brought under section -4 in connection with the termination, cancellation, or nonrenewal of a dealership if the dealership provides for the binding arbitration of disputes arising thereunder, including disputes related to the termination, cancellation, or nonrenewal of the dealership in accordance with the rules of the American Arbitration Association.

§ -7 **Disposition of inventory.** Upon termination of a dealership by either the distributor or the dealer, whether or not for cause, the distributor shall at the request of the dealer, take back any inventory from the dealer which was supplied by the distributor and which has not diminished substantially in value and is of similar quality as when originally supplied. The distributor shall reimburse the dealer for not less than ninety per cent of the cost paid by the dealer or shall cancel not less than ninety per cent of any debts owed on account of the inventory.

§ -8 **Antitrust laws.** No provision of this chapter shall repeal, modify, or supersede, directly or indirectly, any provision of chapter 480."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

ACT 286

S.B. NO. 1251

A Bill for an Act Relating to Conveyance Tax.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 247-6, Hawaii Revised Statutes, is amended to read as follows:

"§247-6 **Certificate of conveyance required.** (a) Any party, with the exception of governmental bodies, agencies, or officers, to a document or instrument subject to this chapter, or his authorized representative, shall file, in the manner and place which the director of taxation shall prescribe, a certificate of conveyance setting forth the actual and full consideration of the property transferred, including any lien or encumbrance on the property, and such other facts as the director may by [regulations] rules prescribe. The certificate of conveyance shall be verified by a written declaration thereon that the statements made therein are subject to the penalties prescribed for false declaration in section 247-11. The

certificate shall be appended to the document or instrument made subject to this chapter and shall be filed with the director simultaneously with the aforementioned document or instrument for the imprinting of the required seal or seals.

(b) No certificate is required to be filed for any document or instrument made exempt by section 247-3, except that in the following situations, a certificate [must] shall be filed in the manner and place which the director shall prescribe, within ninety days after the transaction or prior to the recordation or filing of the document or instrument with the registrar of conveyances or the assistant registrar of the land court or after such period, recordation, or filing as the director shall prescribe:

- (1) In the case of any document or instrument described under [subsection] section 247-3(3), any party to the document or instrument shall file a certificate declaring that the document or instrument merely confirms or corrects a deed, lease, sublease, assignment, transfer, or conveyance previously recorded or filed.
- (2) In the case of any document or instrument described under [subsection] section 247-3(4), any party to the document or instrument shall file a certificate declaring the amount of the nominal consideration paid and marital or parental relationship of the parties.
- (3) In the case of any document or instrument described under [subsection] section 247-3(5), any party to such document or instrument shall file a certificate declaring the reasons why the consideration is \$100 or less.
- (4) In the case of any document or instrument described in [subsection] section 247-3(6), any party to such a document or instrument shall file a certificate declaring that the document or instrument is made pursuant to an agreement of sale, and where applicable, an assignment or assignments of agreements of sale.
- (5) In the case of any document or instrument described under [subsection] section 247-3(8), any person made a party to the document or instrument as grantee, assignee, or transferee shall file a certificate declaring the full and actual consideration of the property transferred.

(c) The form of the certificate and the procedure to be followed for the submission of the certificate shall be prescribed by the director.

(d) Notwithstanding the foregoing, where the director deems it impracticable to require the filing of a certificate or certificates or to obtain the signatures of any or all parties to a certificate or certificates required under this section, he may, in his discretion, waive the requirement of filing the certificate or certificates or of securing the signature of any or all parties to the certificate or certificates.

(e) No document or instrument, on account of which a certificate is required to be filed with the office of the director under this section, shall be accepted for recordation or filing with the registrar of conveyances or the assistant registrar of the land court, unless the certificate has been duly filed.

[(f) Except as provided by law, it shall be unlawful for any officer or employee of the State to make known intentionally information imparted by any certificate filed under this chapter or to permit any such certificate or any copy thereof to be seen or examined by any person other than the person or persons

executing the certificate, or their duly authorized agents, or any person duly authorized by the State in connection with their official duties. Any offense against the foregoing provisions shall be punishable by a fine not exceeding \$500 or imprisonment not exceeding one year, or both.]"

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

ACT 287

H.B. NO. 5

A Bill for an Act Relating to State Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in Article VII, section 13, of the State Constitution which states: "Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance.", the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the State is set forth in Article VII, section 13, of the State Constitution, which states in part: "General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty per cent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half per cent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance." Article VII, section 13, also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including "reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year."
- (2) Actual and estimated debt limits. The limit on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1982-1983 and estimated for each fiscal year from 1983-1984 to 1986-1987, is as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
1979-80	\$ 1,056,696,544	
1980-81	1,169,454,257	
1981-82	1,154,765,486	
1982-83	1,196,435,000	\$208,489,838
1983-84	1,259,773,000	217,107,042
1984-85	1,348,130,000	222,676,698
1985-86	1,444,489,000	234,600,843
1986-87	(not applicable)	249,897,507

For fiscal years 1982-83, 1983-84, 1984-85, 1985-86, and 1986-87, respectively, the debt limit is derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 1979-80, 1980-81, and 1981-82 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1982, dated November 1, 1982. The net general fund revenues for fiscal years 1982-83 to 1985-86 are estimates, based on general fund revenue estimates dated September 10, 1982, by the council on revenues, the body assigned by Article VII, section 7 of the State Constitution, to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit. As certified by the director of finance in the most recent Certificate of the Debt Limit of the State of Hawaii dated March 31, 1983, the total amount of principal and interest on outstanding general obligation bonds for determining the power of the State to issue general obligation bonds within the debt limit is as follows for fiscal year 1983-84 to fiscal year 1989-90:

Fiscal Year	Principal and Interest
1983-84	167,176,957
1984-85	172,421,146
1985-86	173,149,703
1986-87	165,878,193
1987-88	158,773,706
1988-89	150,285,593
1989-90	140,948,686

The Certificate of Debt Limit as of March 31, 1983, further shows that the amount of principal and interest on outstanding bonds applicable to the debt limit continues to decline each year from fiscal year 1989-90 to fiscal year 2011-12 when the final installment of \$15,347 shall be due and payable.

- (4) Amount of authorized and unissued general obligation bonds and bonds authorized by this Act. As calculated from the state comptroller's bond fund reports as of December 31, 1982, adjusted for the \$75,000,000 general obligation bonds dated March 1, 1983, Series AV, the total amount of authorized but unissued general obligation bonds is \$305,384,855. The total amount of general obligation bonds authorized by this Act is \$275,879,000. The total amount of general obligation bonds previously authorized and unissued and the general obligation bonds authorized by this Act is \$581,263,855.
- (5) Proposed general obligation bond issuance. As reported in the Multi-Year Program Plan and Executive Budget, dated December 1982, as it applies to the remainder of fiscal year 1982-83, and as reported by the department of budget and finance for fiscal years 1983-84, 1984-85, 1985-86, and 1986-87, the State proposes to issue \$75,000,000 in general obligation bonds during the remainder of fiscal year 1982-83 and \$75,000,000 semi-annually in each of fiscal years 1983-84, 1984-85, 1985-86, and 1986-87. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, the bonds maturing in substantially equal annual installments of principal and interest payments commencing six months from the date of issuance and being paid semi-annually thereafter. It is assumed that this practice will continue to be applied to the bonds which are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during the remainder of this fiscal year and in the fiscal years 1983-84 to 1985-86 is \$525,000,000. An additional \$150,000,000 is proposed to be issued in fiscal year 1986-87. The total amount of \$525,000,000 which is proposed to be issued through fiscal year 1985-86 is sufficient to meet the requirements of the authorized and unissued bonds and the bonds authorized by this Act, the total amount of which is \$581,263,855, as reported in paragraph (4), except for \$56,263,855. It is assumed that the appropriations to which an additional \$56,263,855 in bond issuance needs to be applied will have been encumbered as of June 30, 1986. The \$150,000,000 which is proposed to be issued in fiscal year 1986-87 will be sufficient to meet the requirements of the June 30, 1986, encumbrances in the amount of \$56,263,855. The amount of assumed encumbrances as of June 30, 1986, is reasonable and conservative, based upon an inspection of the

historical trend of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of authorized and unissued bonds and the bonds authorized by this Act versus the amount of bonds which is proposed to be issued by June 30, 1986, and the amount of June 30, 1986, encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 1986-87, the legislature finds that in the aggregate the amount of bonds which is proposed to be issued is sufficient to meet the requirements of all authorized and unissued bonds and the bonds authorized by this Act.

- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds. General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:
 - (A) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
 - (B) While at the present time, all of the special funds which are required to make reimbursements to the general fund on bonds issued are in a condition to qualify all of the reimbursable bonds for exclusion, it cannot be stated with certainty that such a condition will continue.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, as computed from the Certificate of Debt Limit of the State of Hawaii as of March 31, 1983, the average proportion of principal and interest which is excludable each year from calculation against the debt limit is 15.54 per cent for the ten years from fiscal year 1983-84 to fiscal year 1992-93. For the purpose of this declaration, the assumption is made that 10 per cent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate of 10.0 per cent during fiscal year 1982-83 and 10.5 per cent for the period 1983-87 as reported in the Multi-Year Program Plan and Executive Budget, dated December 1982, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previous authorized and the bonds authorized by this Act, will not cause the debt limit to be exceeded at the time of each bond issuance:

Time of Issue and Amount of Issue to be Counted Against Debt Limit	Debt Limit at Time of Issuance	Greatest Amount & Year of Principal & Interest
3rd issue remainder FY 1982-83 \$67,500,000	\$208,489,838	\$183,652,703 (FY 1985-86)
1st half FY 1983-84 \$67,500,000	217,107,042	190,740,203 (FY 1985-86)
2nd half FY 1983-84 \$67,500,000	217,107,042	197,827,703 (FY 1985-86)
1st half FY 1984-85 \$67,500,000	222,676,698	204,915,203 (FY 1985-86)
2nd half FY 1984-85 \$67,500,000	222,676,698	212,002,703 (FY 1985-86)
1st half FY 1985-86 \$67,500,000	234,600,843	218,752,361 (FY 1986-87)
2nd half FY 1985-86 \$67,500,000	234,600,843	225,839,861 (FY 1986-87)
1st half FY 1986-87 \$67,500,000	249,897,507	231,968,412 (FY 1987-88)
2nd half FY 1986-87 \$67,500,000	249,897,507	239,055,912 (FY 1987-88)

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to exceed at the time of issuance.

SECTION 2. The legislature finds the basis for the declaration of findings set forth in this Act are reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that such matters must remain subject to substantial flexibility.

SECTION 3. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in H.B. No. 1, H.B. No. 387, and S.B. No. 4,¹ passed by this 1983 regular session, and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt

service cost to be paid from special funds; provided that the sum total of the general obligation bonds so issued shall not exceed \$275,879,000.

Any law to the contrary notwithstanding general obligation bonds may be issued from time to time in accordance with Section 39-13, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

SECTION 4. The provisions of this Act are declared to be severable and, if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

SECTION 5. In printing this Act, the revisor of statutes shall substitute in section 3 the corresponding act numbers for bills identified therein.¹

SECTION 6. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

Note

1. Acts 301, 291, and 283, respectively, this volume.

ACT 288

H.B. NO. 322

A Bill for an Act Relating to Paternity Statute of Limitations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 584-6, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read:

“(a) A child, or personal representative of the child, [his] the child’s natural mother, including a mother who is an unmarried woman or a mother who is a married woman who was separated from and was not living with her husband prior to and at the time the child was conceived, or her personal representative or parent if the mother has died; or a man alleged or alleging himself to be the natural father, or his personal representative if the father has died[.];¹ or the department of social services and housing if it is providing or has provided public assistance for the support or maintenance of the child under chapter 346, may bring an action for the purpose of declaring the existence or nonexistence of the father and child relationship within the following time periods:

- (1) If the child is the subject of an adoption proceeding,
 - (A) Within thirty days after the date of the child’s birth in any case when the mother relinquishes the child for adoption during the thirty-day period; or
 - (B) Any time prior to the date of execution by the mother of a valid consent to the child’s adoption, or prior to placement of the child with adoptive parents, but in no event later than three years after the child’s birth; or
- (2) If the child has not become the subject of an adoption proceeding within three years after the child’s birth; provided that any period of

time during which the man alleged or alleging himself to be the natural father of the child is absent from the State or is openly cohabitating with the mother of the child or is contributing to the support of the child, shall not be computed.

(b) When an action is brought under this section [by a child, or personal representative of the child, or his natural mother, or her personal representative or parent if the mother has died], process shall issue in the form of a summons and an order directed to the alleged or presumed father, the mother or both, requiring [him] each to appear² show cause why the action should not be brought.

If, at any stage of the proceedings, there appears probable cause to believe that the alleged or presumed father, the mother, or both, will evade the service of process, or will fail to appear in response thereto, or will flee the jurisdiction of the court, the court may issue a warrant directed to the sheriff, [his] deputy[,], sheriff, or any police officer within the circuit, requiring the alleged or presumed father, the mother, or both, to be arrested and brought for pre-trial proceedings before the family court. Upon such pre-trial proceedings, the court may require the alleged or presumed father, the mother, or both, to enter into bond with good sureties to the State in a sum to be fixed by the court for [his] each person's appearance and the trial of the proceeding in the family court. If [he fails] the alleged or presumed father, the mother, or both, fail to give the bond required [of him], the court may forthwith commit [him] that person to the custody of the chief of police of the county, there to remain until [he] that person enters into the required bond or otherwise is discharged by due process of law. If the alleged or presumed father, the mother, or both, fail to appear in any proceeding under this chapter, any bond for [his] that person's appearance shall be forfeited; but the trial of, or other proceedings in, the action shall, nevertheless, proceed as though [he] that person were present; and upon the findings of the court it shall make such orders as it deems proper as though [he] that person were in court.

In case of forfeiture of any appearance bond, the money collected upon the forfeiture shall be applied in payment of the judgment against the [father.] parent whose parent-child relationship is established under this chapter."

SECTION 2. Section 584-7, Hawaii Revised Statutes, is amended to read:

"**[§584-7] Statute of Limitations.** Except as otherwise provided in section 584-6(a) with respect to a child relinquished for adoption, an action to determine the existence of the father and child relationship as to a child who has no presumed father under section 584-4 shall not be brought later than three years after the birth of the child[, or later than three years after the effective date of this chapter, whichever is later.]; provided that an action brought by a child whose paternity has not been determined or an action brought by a personal representative of such a child shall not be barred until three years after the child reaches the age of majority; and provided further that if the child is the subject of an adoption proceeding, then the time limitations set out in section 584-6(a)(1) shall apply. Sections 584-6 and 584-7 shall not extend the time within which a right of inheritance or a right to a succession may be asserted beyond the time provided by law relating to distribution and closing of decedents' estates or to the determination of heirship, or otherwise."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

Notes

1. Underscoring missing.
2. The words "and to" missing.

ACT 289

H.B. NO. 340

A Bill for an Act Relating to Acupuncture Practitioners.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 436D-3, Hawaii Revised Statutes, is amended to read as follows:

"**[§436D-3 Exemptions.]** Any person licensed under chapters 448, [and] 453, and 460 shall be exempt from the provisions of this chapter."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

ACT 290

H.B. NO. 351

A Bill for an Act Relating to Deferred Acceptance of Nolo Contendere Pleas.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 853, Hawaii Revised Statutes, is amended by amending the title to read:

"[CHAPTER 853]

**CRIMINAL PROCEDURE: DEFERRED ACCEPTANCE
OF GUILTY PLEA, NOLO CONTENDERE PLEA"**

SECTION 2. Section 853-1, Hawaii Revised Statutes, is amended:

1. By amending the title to read as follows:

"§853-1 Deferred acceptance of guilty plea[,] or nolo contendere plea; discharge and dismissal, expungement of records."

2. By amending subsection (a) to read as follows:

"(a) Upon proper motion as provided by this chapter:

- (1) When a defendant voluntarily pleads guilty[,] or nolo contendere, prior to commencement of trial, to a felony [or], misdemeanor, or petty misdemeanor;

- (2) It appears to the court that the defendant is not likely again to engage in a criminal course of conduct; and
- (3) The ends of justice and the welfare of society do not require that the defendant shall presently suffer the penalty imposed by law, the court, without accepting the plea of nolo contendere or entering a judgment of guilt and with the consent of the defendant and after considering the recommendations, if any, of the prosecutor, may defer further [proceeding] proceedings."

SECTION 3. Section 853-2, Hawaii Revised Statutes, is amended to read as follows:

"**[[§853-2]] Plea of guilty[;] or nolo contendere; procedure.** Upon motion made before sentence by the defendant, the prosecutor, or on its own motion, the court will either proceed in accordance with section 853-1, or deny the motion and accept the defendant's plea of guilty[,] or nolo contendere, or allow the defendant to withdraw his plea of guilty or nolo contendere only for good cause."

SECTION 4. Section 853-3, Hawaii Revised Statutes, is amended to read as follows:

"**[[§853-3]] Violation of terms and conditions during deferment; result.** Upon violation of a term or condition set by the court for a deferred acceptance of guilty plea[,] or deferred acceptance of nolo contendere plea, the court may enter an adjudication of guilt and proceed as otherwise provided."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

ACT 291

H.B. NO. 387

A Bill for an Act Relating to the Judiciary.

Be It Enacted by the Legislature of the State of Hawaii:

PART I. GENERAL PROVISIONS

SECTION 1. **Short Title.** This Act shall be known as the Judiciary Appropriations Act of 1983.

SECTION 2. **Definitions.** Unless otherwise clear from the context, as used in this Act:

(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the judiciary (JUD) followed by a designated number for the program.

(b) "Means of Financing," or "MOF," means the source from which funds are appropriated, or authorized, as the case may be, to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meanings:

- A General fund
- B Special fund
- N Other federal funds
- C General obligation bond fund

(c) "Position ceiling" means the maximum number of permanent positions authorized for a particular program during a specified period or periods, as noted by an asterisk.

PART II. PROGRAM APPROPRIATIONS

SECTION 3. Appropriations. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or authorized from the sources of funding specified to the judiciary for the fiscal biennium beginning July 1, 1983 and ending June 30, 1985. The total expenditures and the number of permanently established positions in each fiscal year of the fiscal biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided in this Act.

Item No.	Program	Program ID	M FY O 1983-84 F	M FY O 1984-85 F	Total M Biennium O 1983-85 F
THE JUDICIAL SYSTEM					
	Court Operations				
1	Courts of Appeal Operating	JUD 101	45.00* 1,671,375A	46.00* 1,687,291A	3,358,666A
2	Land Court/Tax Court Operating	JUD 102	4.00* 133,260A	4.00* 132,339A	265,599A
3	Circuit Courts Operating	JUD 111	275.00* 9,340,016A 164,425N	281.00* 9,875,572A 169,214N	19,215,588A 333,639N
4	Family Courts Operating	JUD 112	248.50* 8,902,150A 100,135N	255.50* 9,104,567A 108,146N	18,006,717A 208,281N
5	District Courts Operating Support Services	JUD 121	479.50* 10,955,368A	492.50* 11,276,252A	22,231,620A
6	Administrative Director Services Operating Investment: Capital	JUD 201	86.00* 3,656,054A 7,367,000C	104.00* 4,204,117A 4,566,000C	7,860,171A 11,933,000C
7	Law Library Operating	JUD 202	8.00* 643,384A	8.00* 631,752A	1,275,136A
8	Driver Education and Training Operating	JUD 221	45.00* 835,819B	48.00* 903,824B	1,739,643B

SECTION 4. Whenever the expending program of the judiciary to which an appropriation is made is changed due to legislation enacted during any session of the legislature which affects the appropriations made by this Act, the chief justice shall transfer the necessary funds and positions to the proper expending program.

SECTION 5. Whenever the need arises, the chief justice, in administering an equitable and expeditious judicial process, is authorized to transfer sufficient funds and positions between programs for research and development and operating purposes; provided that such transfer shall not be made to implement any collective bargaining contracts signed after this Legislature adjourns sine die.

SECTION 6. Where the chief justice or any agency or any government unit is able to secure federal funds or other property made available under any act of Congress, or any funds or other property from private organizations or individuals which are to be expended in connection with any program or works authorized by this Act, or otherwise, the chief justice or agency with the chief justice's approval shall have the power to enter into such undertaking with the proper offices or agencies of the federal government or private organization or individuals. While most federal aid allocations are known and state matching funds are provided in this Act, there may be programs for which federal-state cost sharing is not yet determined. In such instances, the availability of federal funds shall be construed as a proportionate reduction of state costs whenever possible.

SECTION 7. Provided, that of the general fund appropriation for the Administrative Director Services Program (JUD 201), \$25,000 in each fiscal year of the biennium shall be used for a judicial selection commission.

SECTION 8. Provided, that of the general fund appropriation for the Administrative Director Services Program (JUD 201), \$10,000 in each fiscal year of the biennium shall be used for a commission on judicial discipline.

SECTION 9. Provided, that the Judiciary is authorized to transfer savings from its general fund appropriation to the Driver Education special fund to accommodate any shortfalls in revenues or temporary cash flow deficits. Provided, further, that all transfers are not intended to increase the appropriation to the Driver Education Program (JUD 221). Provided, further, that all such transfers for the prior fiscal year shall be reported to the Legislature at the beginning of each fiscal year.

SECTION 10. Provided, that of the general fund appropriation for the Administrative Director Services Program (JUD 201), \$50,000, in fiscal year 1983-84 shall be used for a comprehensive review of the Hawaii Penal Code.

SECTION 11. Provided, that of the general fund appropriation for the Administrative Director Services Program (JUD 201), \$100,000, in fiscal year 1984-85 shall be used to pay for computer services provided by the Electronic Data Processing Division, Department of Budget and Finance, to the judiciary.

SECTION 12. Provided, that of the general fund appropriation for the Administrative Director Services Program (JUD 201), \$137,000 in fiscal year 1983-84 and \$147,000 in fiscal year 1984-85 shall be used for neighborhood justice centers and mediation services.

PART III. CAPITAL IMPROVEMENT PROJECTS

SECTION 13. Capital Improvement Projects. The sum of \$11,933,000 appropriated or authorized in Part II of this Act for capital investment shall be expended for the projects listed below. Several related or similar projects may be combined into a single project, if such combination is advantageous or convenient, for land acquisition, design, and construction purposes; provided that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands dollars and are to be expended by the judiciary.)

Item No.	Program and Capital Project	Program ID	M FY O 1983-84 F	M FY O 1984-85 F	Total M Biennium O 1983-85 F
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THE JUDICIAL SYSTEM

Support Services

Administrative Director Services

JUD 201

- 1 State Judiciary Complex Expansion, Oahu
Planning, land acquisition and design of facilities for the
expansion of the State Judiciary Complex.

Plans	160		160
Land Acquisition	2,139		2,139
Design		1,014	1,014
Total Funding	2,299 C	1,014 C	3,313 C

- 2 Renovation of Ali'iolani Hale and Kapuaia Building,
Oahu
Renovation of both Ali'iolani Hale, to accommodate the
Supreme Court Clerk's Office, Law Library and Adminis-
trative Director's Office, and Kapuaia Building to accom-
modate the Intermediate Court of Appeals and other Judici-
ary offices.

Design	8		8
Construction	4,187		4,187
Equipment	57		57
Total Funding	4,252 C	C	4,252 C

- 3 Honolulu District Court, Loft Space Improvements, Oahu
Plan, design and renovate the two loft floors for office and
courtroom use and furnish the fifth floor courtroom.

Plan	5		5
Design	96		96

	Construction Equipment Total Funding	987 108 1,095 C	987 108 1,196 C
4	Hilo Judiciary Complex, Hawaii Planning of a Judiciary Complex in Hilo to accommodate the Circuit, Family and District Courts. Plans Total Funding	101 C 100 100 C	 100 100 C
5	Renovation of Lahaina District Court, Maui Renovation and furnishing of the Lahaina Courthouse to accommodate the District Courts. Construction Equipment Total Funding	277 85 362 C	914 36 950 C 1,191 121 1,312 C
6	Advance Planning Judiciary Advance planning for statewide Judiciary facilities planning projects. Plans Total Funding	15 15 C	15 15 C
7	Remodeling and Upgrading Judiciary Buildings, State- wide Design, construction and furnishing of equipment to remodel and upgrade Judiciary buildings, statewide. Design Construction Equipment Total Funding	55 157 6 218 C	60 195 7 262 C 115 352 13 480 C

Item No.	Program and Capital Project	Program ID	M FY O 1983-84 F	M FY O 1984-85 F	Total M Biennium O 1983-85 F
8	Molokai District Court, Molokai Construction and furnishing of the Molokai District Court in the Kaunakakai Civic Center. Construction Equipment Total Funding			723 38 761 C	723 38 761 C
9	Wahiawa District Court, Oahu Design of the Wahiawa District Court in the Wahiawa Civic Center. Design Total Funding			48 48 C	48 48 C
10	Judiciary Security Training Facility, Oahu Planning of a Judiciary Security training facility. Plans Total Funding		20 20 C	C	20 20 C
11	Judiciary Complex Garage, Oahu Design of a parking facility in the Reed Lane area of the State Judiciary Complex. Design Total Funding		C	436 436 C	436 436 C

PART IV. ISSUANCE OF BONDS

SECTION 14. General Obligation Bonds. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects authorized in Part II and listed in Part III of this Act, provided that the sum total of the general obligation bonds so issued shall not exceed \$11,933,000.

PART V. SPECIAL PROVISIONS

SECTION 15. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in Part II and listed in Part III of this Act shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all appropriations made to expended in fiscal biennium 1983-85 which are unencumbered as of June 30, 1986 shall lapse as of that date.

SECTION 16. The judiciary is authorized to delegate to other State or County agencies the acquisition of land, planning, design, and construction of any capital improvement project when it is determined by the judiciary that it is an advantage to do so.

SECTION 17. All unrequired balances after the objectives of appropriations made in Part II for capital investment purposes from the general obligation fund and listed as projects in Part III have been met, shall be transferred to the judiciary project adjustment fund.

SECTION 18. In the event that the amount specified for a capital investment project listed in Part III is insufficient and where the source of funding for the project is designated as the general obligation bond fund, the chief justice may make supplemental allotments from the project adjustment fund; provided that such supplemental allotments shall not be used to increase the scope of the project; provided further that a report of such supplemental allotments and transfers into the judiciary project adjustment fund as provided by section 17 for the period ending December 31 of each calendar year shall be made to the President of the Senate and the Speaker of the House of Representatives by February 1 of the following calendar year.

SECTION 19. Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a project listed in Part III, the chief justice may authorize such reduction of project scope; provided that the scope of a project shall not be reduced merely because the appropriation for the project is insufficient.

SECTION 20. The chief justice shall determine when and the manner in which the authorized projects shall be initiated. He shall notify the governor from time to time of the specific amounts required for the projects, and the governor shall provide for such amounts through the issuance of bonds authorized in Part IV.

PART VI. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE

SECTION 21. Severability. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective and intent of such appropriation to the extent possible.

SECTION 22. Manifest errors. In the event manifest clerical, typographical, or other mechanical errors are found in this Act, the chief justice is authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 23. Effective date. This Act shall take effect on July 1, 1983.

(Approved June 14, 1983.)

ACT 292

H.B. NO. 1243

A Bill for an Act Relating to Liquor Licenses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 281-31, Hawaii Revised Statutes, is amended to read as follows:

"§281-31 Licenses, classes. (a) Licenses may be granted by the liquor commission as [follows:] provided in this section.

(b) Class 1. Manufacturers' licenses. A license for the manufacture of liquor shall authorize the licensee to manufacture the liquor therein specified and to sell the same at wholesale in original packages to any person who holds a license to resell the same, and to sell draught beer or wine manufactured from grapes or other fruits grown in the State in any quantity to any person for private use and consumption. Under this license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) Beer;
- (2) Wine;
- (3) Wine manufactured from grapes or other fruits grown in the State;
- (4) Alcohol;
- (5) Other specified liquor.

It shall be unlawful for any holder of a manufacturer's license to have any interest whatsoever in the license or licensed premises of any other licensee.

(c) Class 3. Wholesale dealers' licenses. A license for the sale of liquors at wholesale shall authorize the licensee to import and sell only to licensees or to others who are by law authorized to resell but are not by law required to hold a license, the liquors therein specified in quantities not less than five gallons at one time if sold from or in bulk containers or not less than one gallon if bottled goods; provided that samples of liquor may be sold back to the manufacturer. The license

may authorize the licensee to sell draught beer in quantities not less than five gallons at one time to any person for private use and consumption if the licensee files an affidavit with the commission that there is not a class 4 retail dealers licensee available to sell the wholesalers brand of draught beer. Under the license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Alcohol.

If any wholesale dealer solicits or takes any orders in any county other than that where his place of business is located, the orders may be filled only by shipment direct from the county in which the wholesale dealer has his license. Nothing herein shall prevent a wholesaler from selling liquors to post exchanges, ships service stores, army or navy officers' clubs, or like organizations located on army or navy reservations, or to any vessel other than vessels performing a regular water transportation service between any two or more ports in the State, or to aviation companies who operate an aerial transportation enterprise as a common carrier, under chapter 269, engaged in regular flight passenger services between any two or more airports in the State for use on aircraft, or aviation companies engaged in transpacific flight operations for use on aircraft outside the jurisdiction of the State.

(d) Class 4. Retail dealers' licenses. A license to sell liquors at retail or to class 10 licenses, shall authorize the licensee to sell the liquors therein specified in their original packages. Under the license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Alcohol.

(e) Class 5. Dispensers' licenses. [A dispenser's license shall authorize the licensee to sell liquors therein specified for consumption on the premises. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Beer.]

A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories of establishments shall be as follows:

- (1) A standard bar;
- (2) A premise in which a person performs or entertains unclothed or in attire restricted to use by entertainers pursuant to commission rules;
- (3) A premise in which live or recorded music is played and in which facilities for dancing by the patrons are provided; or
- (4) A premise in which employees or entertainers are compensated to sit with patrons whether or not the employees or entertainers are consuming non-alcoholic beverages while in the company of such patrons.

If a licensee under class 5 desires to change the category of establishment the licensee owns or operates, the licensee shall apply for a new license applicable to the category of the licensee's establishment.

For each category of class 5 licenses there shall be the following kinds:

- (1) General (includes all liquors except alcohol);
- (2) Beer and wine;
- (3) Beer.

(f) Class 6. Club licenses. A club license shall be general only (but excluding alcohol) and shall authorize the licensee to sell liquors to members of the club and to guests thereof enjoying the privileges of membership, for consumption only on the premises kept and operated by the club, and shall also authorize any bona fide club member to keep in his private locker on the premises a reasonable quantity of liquor, if owned by himself, for his own personal use and not to be sold, and which may be consumed only on the premises.

(g) Class 7. Vessel licenses. A general license may be granted to the owner of any vessel performing a regular water transportation passenger service between any two or more ports in the State for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided such sales are made only while the vessel is en route, and only for consumption by passengers on board. If the vessel has a home port in the State the license shall be issuable in the county wherein the home port is situated, otherwise in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the shore of any island of the State the same shall constitute a violation of this chapter.

(h) Class 8. Additional vessel licenses. A general license may be granted to the owner of any vessel which does not fall within class 7 for the sale of liquor (other than alcohol) on board the vessel while in any port of the State. Such sales shall be made only for consumption by passengers and their guests on board such vessel. The license shall be issuable in each county where the sales are to be made and the application for the license may be made by any agent representing the owner.

(i) Class 9. Tour or cruise vessel licenses. A general license may be granted to the owner of any tour or cruise vessel for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided such sales are made only for consumption by passengers on board while the vessel is in operation outside the port or dock of any island of the State. If the vessel has a home port in the State, the license shall be issuable in the county wherein the home port is situated, otherwise in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the shore of any island of the State, the same shall constitute a violation of this chapter.

(j) Class 10. Special. A special license may be granted for the sale of liquor for a period not to exceed three days on any occasion and under such conditions as may be approved by the commission. Of this class there shall be the following kinds:

- (1) General (includes all liquors except alcohol);

- (2) Beer and wine;
- (3) Beer.

Under such license the liquors therein specified shall be consumed on the premises.

(k) Class 11. Cabaret license. A cabaret license shall be general only (but excluding alcohol) and shall authorize the sale of liquors for consumption on the premises. This license shall be issued only for premises where food is served, facilities for dancing by the patrons are provided, including a dance floor and an orchestra of not less than three members, [and] or professional entertainment is provided for the patrons. Notwithstanding any rule or regulation of the liquor commission to the contrary, cabarets may be opened for the transaction of business until 4 a.m. throughout the entire week.

(l) Class 12. Hotel licenses. A license to sell liquor in a hotel shall authorize the licensee to sell all liquors, except alcohol, for consumption on the premises; provided that the liquor commissions in each county shall adopt rules, as deemed appropriate by each respective liquor commission, restricting holders of hotel licenses in selling liquors as¹ authorized by retail dealers' licenses.

(m) It shall be unlawful for any retail licensee (Classes 4 through 12) to purchase liquor from any person other than a wholesaler licensed pursuant to this chapter, except as otherwise provided in this section.

Sections 281-57 to 281-61 shall not apply to Classes 7 to 10."

SECTION 2. Chapter 281, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§281- Standard bar; music and dancing available. Any standard bar establishment may provide live or recorded music and dancing facilities for patrons if the establishment is located in a commercial district and obtains the approval of the commission to provide such services on a one time trial basis not to exceed ninety days, provided the music and dancing are allowed only during the trial period."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.²

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

Notes

1. Underscoring missing.

2. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Intoxicating Liquor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Part III of Chapter 281, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§281- Purchasing from other than primary source of supply; penalty.

(a) No licensee authorized to import liquor into this State shall order, purchase, or receive liquor for resale unless the licensee orders, purchases or receives it from the primary source of supply for the brand of liquor sought to be sold. No licensee authorized to import liquor into this State may sell liquor purchased or received by the licensee to any person if the liquor has not been purchased or received by the licensee from the primary source of supply.

(b) No supplier shall solicit, accept or fill any order for any liquor from any licensee authorized to import liquor into this State unless the supplier is the primary source of supply for the brand of liquor sold or sought to be sold.

(c) The commission shall revoke for a period of not less than six months the license of any manufacturer, rectifier, wholesaler, retailer or other licensee who violates, directly or indirectly, the provisions of this section. The penalty prescribed in this section is cumulative and in addition to any other penalties prescribed in this chapter.

(d) For purposes of this section, “primary source of supply” means:

- (1) The manufacturer of the liquor, if the liquor can be secured directly from the manufacturer by United States wholesalers, or
- (2) The rectifier, the owner of the liquor at the time it becomes a marketable produce, the bottler, the importer, or the exclusive agent of any such person, who, if the liquor cannot be secured from the manufacturer by United States wholesalers, is the source closest to the manufacturer in the chain of distribution from whom the product can be secured by the United States wholesalers.”

SECTION 2. Notwithstanding anything herein to the contrary, this Act shall not affect any wholesale liquor dealer duly licensed under this chapter or any person who has applied for a license by April 1, 1983, and such licensee shall be entitled to continue to carry on such business in accordance with and shall continue to be governed by the terms and provisions of this chapter, as those terms and provisions existed prior to the approval of this Act. The exemption granted by this section shall terminate upon any change in ownership of the licensee entitled to such exemption. If the licensee is a corporation a change in ownership means the change in ownership of twenty-five per cent or more of the capital stock or a change in ownership of any number of shares of stock which results in the transferee thereof becoming the owner of twenty-five per cent or more of the outstanding capital stock. A sale or transfer of ownership of a licensee, including transfers of stock if the licensee is a corporation, to a spouse, the children or grandchildren, the parents or grandparents, a brother, a sister or other relative of the present owner shall not be deemed to be a change in ownership within the meaning of this section.

SECTION 3. New material is underscored.¹

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Motor Vehicle Equipment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to regulate the installation and use of sun screening devices, including glass tinting, which are used on motor vehicles. It is the intent of the legislature to allow the use of the sun screening devices provided in this chapter in order that:

- (1) People may continue to enjoy the increased comfort provided their vehicles by the devices;
- (2) The State and the public may continue to benefit from the energy savings derived from sun screening devices which reduce the need for air conditioning in motor vehicles;
- (3) The State may continue to benefit from taxes paid by businesses which install sun screening devices.

The legislature also intends that the standards for such screening devices be established at reasonable levels which do not interfere with the vision of the driver. It is the purpose of this Act to accomplish all of these goals.

SECTION 2. Chapter 291, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§291- Definitions. As used in this chapter:

"FMVSS" means the Federal Motor Vehicle Safety Standards.

"Glazing material" means any glass, plastic, or like material, manufactured for use in or on a vehicle, including but not limited to windshields, window openings, or interior partitions.

"Light transmittance" means the ratio of the amount of total visible light, expressed in percentages, which is allowed to pass through the product or material, including the glazing material, to the amount of total visible light falling on the product or material and the glazing material.

"Luminous reflectance" means the ratio of the amount of total visible light, expressed in percentages, which is reflected outward by the product or material to the amount of total visible light falling on the product or material.

"Sun screening devices" means products or materials used or designed to be used in conjunction with glazing materials for the purpose of reducing the effects of the sun, including, but not limited to tinting films and perforated sun screening materials, but excluding louvered materials.

§291- Regulation of motor vehicle sun screening devices; penalty. (a) No person shall operate, permit the operation of, cause to be operated, or park any motor vehicle on a public highway if the glazing material of the motor vehicle:

- (1) Does not meet the requirements of FMVSS 205 in effect at the time of its manufacture; or
- (2) Is used in conjunction with sun screening devices not exempted from this section by subsection (d) hereof.

(b) No person shall install, mount, adhere, affix, or use any sun screening device or combination of devices in conjunction with the glazing material of a motor

vehicle which does not meet the requirements of FMVSS 205 in effect at the time of the glazing material's manufacture except as provided in this section. Any person who violates this section shall be liable for the removal of any sun screening device applied contrary to this section.

(c) A safety inspection required under section 286-25 shall include a test to ensure that the glazing material and any sun screening devices meet the requirements specified in this section.

(d) This section shall not apply to:

- (1) Rearview mirrors;
- (2) Adjustable nontransparent sun visors which are mounted forward of the side windows and are not attached to the glazing material;
- (3) Signs, stickers, or other materials which are displayed in a seven-inch square in the lower corner of the windshield farthest removed from the driver or signs, stickers, or other materials which are displayed in a five-inch square in the lower corner of the windshield nearest the driver;
- (4) Rear trunk lid handle or hinges;
- (5) Window wipers and window wiper motors;
- (6) Transparent sun screening film materials which are installed, affixed, or applied along the top edge of the windshield so long as such materials do not encroach upon the AS-1 portion of the windshield as provided by FMVSS 205 and FMVSS 128;
- (7) Sun screening devices for front side wing vents and windows which, when used in conjunction with the glazing material have a light transmittance of no less than thirty-five per cent plus or minus three per cent and a luminous reflectance of no more than twenty per cent plus or minus three per cent;
- (8) Sun screening devices for side windows necessary for driving visibility which are to the rear of the driver and for rear windows necessary for driving visibility which, when used in conjunction with the glazing material, have a light transmittance of no less than thirty-five per cent plus or minus three per cent and a luminous reflectance of no more than twenty per cent plus or minus three per cent;
- (9) Privacy drapes, curtains, or blinds, or any combination, installed on the interior of motor homes.

(e) Any person who violates this section shall be fined not less than \$50 nor more than \$250 for each separate offense."

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. New material is underscored.¹

SECTION 5. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 295

S.B. NO. 735

A Bill for an Act Relating to Public Accountancy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 466-5, Hawaii Revised Statutes, is amended to read as follows:

"§466-5 Certificate of certified public accountant. (a) Issuance. A person (1) who has attained eighteen years of age, (2) who [is of good moral character,] has a reputation for competence, trustworthiness, and fairness, (3) who meets the educational and examination requirements hereinafter provided in this section, and (4) who meets the experience requirement hereinafter provided in this section shall, upon application to the board, be issued a certificate of "certified public accountant". The board shall maintain a list of all persons to whom such certificates are issued. Such certificates shall be effective for a period not exceeding two years and shall be renewable biennially upon application to the board.

(b) Educational requirements. A person applying for a certificate of certified public accountant (1) before January 1, 1979, shall be required to have obtained a baccalaureate degree conferred by a college or university recognized by the board, or (2) after December 31, 1978, shall:

- (A) Obtain a baccalaureate degree conferred by a college or university recognized by the board; [and]
 - (B) Complete the study of accounting and related courses as the board by rule deems appropriate; and
 - (C) Complete not less than thirty semester hours of study in addition to those semester hours required for a baccalaureate degree at a college or university recognized by the board. The person may commence the additional hours of study required by this subparagraph prior to obtaining of a baccalaureate degree but only after the completion of one hundred five semester hours towards the baccalaureate degree. The content of the additional hours of study shall be determined by rules adopted pursuant to chapter 91.
- (c) Exemption from educational requirements. A person:
- (1) Who holds a current registration as a public accountant under section 466-6; or
 - (2) Who:
 - (A) Holds and has continued to hold a valid certificate of certified public accountant of another state for a period of not less than ten years preceding the date of the person's application under this section and has been in the active practice of public accountancy in one or more states for a period of not less than five years preceding the date of the application under this section; or

- (B) The board determines, met the educational requirements of this State for a certificate of certified public accountant as they existed when the person was originally issued a certificate of certified public accountant by the other state;

shall, upon application to the board and demonstration that the continuing education requirements established by rule of the board have been satisfied, be exempt from the educational requirements of subsection (b).

(d) Experience requirement. A person applying for a certificate of certified public accountant shall be required to:

- (1) Complete one thousand five hundred chargeable hours in the performance of audits involving the application of generally accepted accounting principles and generally accepted auditing standards; or
- (2) Complete two years of professional experience in public accounting practice [or experience as an auditor or examiner in industry or government if, in the opinion of the board, such experience is substantially as comprehensive and diversified as experience in public accounting practice]. Representation of satisfaction of the experience requirement by an applicant for a certificate of certified public accountant and by any of the applicant's employers shall be submitted to the board under oath.

(e) Examination requirements. A person applying for a certificate of certified public accountant shall be required to have satisfactorily completed an examination in accounting, auditing, and such other related subjects as the board shall determine to be appropriate. Such examination shall be held by the board and shall take place as often as the board shall determine to be desirable, but not less frequently than once each year.

(f) Admission to examination. A person (1) who has met the applicable educational requirements prescribed in subsection (b) of this section, or (2) who has not met all of the requirements prescribed by subsection (b)(2) of this section but who expects to meet the requirements of subsections (b)(2)(A) and (b)(2)(B) of this section within one hundred twenty days following the examination prescribed in subsection (e) [of this section], or (3) who is exempted from such educational requirements by subsection (c) [of this section], shall, upon application to the board, be admitted to such examination. An applicant who has been admitted to the examination pursuant to subsection (f)(2) will not receive any conditional credit pursuant to subsection (g) for any portion of the examination, unless he completes all of the educational requirements of subsections (b)(2)(A) and (b)(2)(B) within one hundred twenty days following the examination. An applicant admitted to the examination pursuant to subsection (f)(2), who satisfactorily completes the entire examination, will not be entitled to receive a certificate of certified public accountant unless:

- (1) He completes the educational requirements of subsections (b)(2)(A) and (b)(2)(B) within one hundred twenty days following the examination; and

- (2) He completes the educational requirements of subsection (b)(2)(C) within a time period following the examination which shall be established by the board by rules promulgated pursuant to chapter 91.

(g) Re-examination. The Board may by regulation prescribe the terms and conditions under which an applicant who has taken the examination described in subsection (e) [of this section], but who has not satisfactorily completed that examination, may be given credit for any part thereof that the applicant has satisfactorily completed. The board may also provide by regulation for a reasonable waiting period for an applicant to apply for re-examination.

(h) Exemption from examination requirements. A person (1) who is the holder of a valid certificate of certified public accountant issued under the laws of another state, or (2) who is the holder of a valid certificate, license, or degree in a foreign country determined by the board to be (i) a recognized qualification for the practice of public accountancy in such other country, (ii) comparable to a certificate of certified public accountant of this State, and (iii) issued to such person on the basis of an examination comparable to the examination described in subsection (e) [of this section], shall, upon application to the board, be exempt from the examination requirements specified in subsection (e) [of this section].

(i) Existing certificate holders. A person who, on January 1, 1974, holds a certificate of certified public accountant issued under the laws of this State theretofore existing shall not be required to obtain an additional certificate of certified public accountant under this chapter, but shall otherwise be subject to all the provisions of this chapter; and such a certificate theretofore issued shall, for all purposes, be considered a certificate issued under this chapter and subject to the provisions hereof.

(j) A person applying for a certificate of certified public accountant after December 31, 1983, shall be allowed the option of electing to replace the requirements of subsection (b)(2)(c) with an additional thirty months of professional experience in a public accounting practice."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

A Bill for an Act Relating to Geothermal Energy.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the development and exploration of Hawaii's geothermal resources is of statewide concern, and that this interest must be balanced with interests in preserving Hawaii's unique social and natural environment. The purpose of this Act is to provide a policy that will assist in the location of geothermal resources development in areas of the lowest potential environmental impact.

SECTION 2. Section 182-4, Hawaii Revised Statutes, is amended to read as follows:

"§182-4 Mining leases on state lands. (a) If any mineral is discovered or known to exist on state lands, any interested person may notify the board of land and natural resources of his desire to apply for a mining lease. The notice shall be accompanied by a fee of \$100 together with a description of the land desired to be leased and the minerals involved and such information and maps as the board by regulation may prescribe. As soon as practicable thereafter, the board shall cause a notice to be published in a newspaper of general circulation in the county where the lands are located, at least once in each of three successive weeks, setting forth the description of the land, and the minerals desired to be leased. The board may hold the public auction of the mining lease within six months from the date of the first publication of notice or such further time as may be reasonably necessary. Whether or not the state land sought to be auctioned is then being utilized or put to some productive use, the board, after due notice of public hearing to all parties in interest, within six weeks from the date of the first publication of notice or such further time as may be reasonably necessary, shall determine whether the proposed mining operation or the existing or reasonably foreseeable future use of the land would be of greater benefit to the State. If the board determines that the existing or reasonably foreseeable future use would be of greater benefit to the State than the proposed mining use of the land, it shall disapprove the application for a mining lease of the land without putting the land to auction.

The board shall determine the area to be offered for lease and, after due notice of public hearing to all parties in interest, may modify the boundaries of the land areas. At least thirty days prior to the holding of any public auction, the board shall cause a notice to be published in a newspaper of general circulation in the State at least once in each of three successive weeks, setting forth the description of the land, the minerals to be leased, and the time and place of the auction. Bidders at the public auction may be required to bid on the amount of annual rental to be paid for the term of the mining lease based on an upset price fixed by the board, a royalty based on the gross proceeds or net profits, cash bonus, or any combination or other basis and under such terms and conditions as may be set by the board.

(b) Any provisions to the contrary notwithstanding, if the person who discovers the mineral discovers it as a result of exploration permitted under section 182-6, and if that person bids at the public auction on the mining lease for the right to mine the discovered mineral and is unsuccessful in obtaining such lease, that person shall be reimbursed by the person submitting the highest bid at public auction for the direct or indirect costs incurred in the exploration of the land, excluding salaries, attorney fee's and legal expenses. The department shall have the authority to review and approve all expenses and costs that may be reimbursed."

SECTION 3. Chapter 205, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

"§205- Geothermal resource subzones. (a) Geothermal resource sub-zones may be designated within each of the land use districts established under section 205-2. Only those areas designated as geothermal resource subzones may be utilized for the exploration, development, production, and distribution of electrical

energy from geothermal sources, in addition to those uses permitted in each land district under this chapter.

(b) The board of land and natural resources shall have the responsibility for designating areas as geothermal resource subzones as provided under section 205-

The designation of geothermal resource subzones shall be governed exclusively by this section and section 205- , except as provided therein. The board shall adopt, amend, or repeal rules related to its authority to designate and regulate the use of geothermal resource subzones in the manner provided under chapter 91.

The authority of the board to designate geothermal resource subzones shall be an exception to those provisions of this chapter and of section 46-4 authorizing the land use commission and the counties to establish and modify land use districts and to regulate uses therein.

(c) The use of an area for the exploration, development, production and/or distribution of electrical energy from geothermal sources within a geothermal resource subzone shall be governed by the board within the conservation district and by existing state and county statutes, ordinances, and rules within the agricultural, rural, and urban districts, except that no land use commission approval shall be required for the use of subzones. The board and/or appropriate county agency shall, upon request, conduct a contested case hearing pursuant to chapter 91 prior to the issuance of a geothermal resource permit relating to the exploration, development, production, and distribution of electrical energy from geothermal resources. The standard for determining the weight of the evidence in a contested case proceeding shall be by a preponderance of evidence. Chapters 183, 205A, 226, and 343 shall apply as appropriate.

§205- Designation of areas as geothermal resource subzones. (a) Beginning in 1983, the board of land and natural resources shall conduct a county-by-county assessment of areas with geothermal potential for the purpose of designating geothermal resource subzones. This assessment shall be revised or updated at the discretion of the board, but at least once each five years beginning in 1988. Any property owner or person with an interest in real property wishing to have an area designated as a geothermal resource subzone may submit a petition for a geothermal resource subzone designation in the form and manner established by rules and regulations adopted by the board. An environmental impact statement as defined under chapter 343 shall not be required for the assessment of areas under this section.

(b) The board's assessment of each potential geothermal resource subzone area shall examine factors to include, but not be limited to:

- (1) The area's potential for the production of geothermal energy;
- (2) The prospects for the utilization of geothermal energy in the area;
- (3) The geologic hazards that potential geothermal projects would encounter;
- (4) Social and environmental impacts;
- (5) The compatibility of geothermal development and potential related industries with present uses of surrounding land and those uses permitted under the general plan or land use policies of the county in which the area is located;

- (6) The potential economic benefits to be derived from geothermal development and potential related industries; and
- (7) The compatibility of geothermal development and potential related industries with the uses permitted under sections 183-41 and 205-2, where the area falls within a conservation district.

In addition, the board shall consider, if applicable, objectives, policies and guidelines set forth in part I of chapter 205A, and the provisions of chapter 226.

(c) Methods for assessing the factors in subsection (b) shall be left to the discretion of the board and may be based on currently available public information.

(d) After the board has completed a county-by-county assessment of all areas with geothermal potential or after any subsequent update or review, the board shall compare all areas showing geothermal potential within each county, and shall propose areas for potential designation as geothermal resource subzones based upon a preliminary finding that the areas are those sites which best demonstrate an acceptable balance between the factors set forth in subsection (b). Once such a proposal is made, the board shall conduct public hearings pursuant to this subsection, notwithstanding any contrary provision related to public hearing procedures.

- (1) Hearings shall be held at locations which are in close proximity to those areas proposed for designation. A public notice of hearing, including a description of the proposed areas, an invitation for public comment, and a statement of the date, time, and place where persons may be heard shall be published and mailed no less than twenty days before the hearing. The notice shall be published on three separate days in a newspaper of general circulation state-wide and in the county in which the hearing is to be held. Copies of the notice shall be mailed to the department of planning and economic development, and the planning commission and planning department of the county in which the proposed areas are located.
- (2) The hearing shall be held before the board, and the authority to conduct hearings shall not be delegated to any agent or representative of the board. All persons and agencies shall be afforded the opportunity to submit data, views, and arguments either orally or in writing. The department of planning and economic development and the county planning department shall be permitted to appear at every hearing and make recommendations concerning each proposal by the board.
- (3) At the close of the hearing, the board may designate areas as geothermal resource subzones or announce the date on which it will render its decision. The board may designate areas as a geothermal resource subzones only upon finding that the areas are those sites which best demonstrate an acceptable balance between the factors set forth in subsection (b). Upon request, the board shall issue a concise statement of its findings and the principal reasons for its decision to designate a particular area.

(e) The designation of any geothermal resource subzone may be withdrawn by the board of land and natural resources after proceedings conducted pursuant to the provisions of chapter 91. The board shall withdraw a designation

only upon finding by a preponderance of the evidence that the area is no longer suited for designation, provided that the designation shall not be withdrawn for areas in which active exploration, development, production or distribution of electrical energy from geothermal sources is taking place.

(f) This Act shall not apply to any active exploration, development or production of electrical energy from geothermal sources taking place on the effective date of the Act, provided that any expansion of such activities shall be carried out in compliance with its provisions."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.¹

SECTION 5. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

Note

1. No bracketed material. Edited pursuant to HRS §23G-16.5.

ACT 297

S.B. NO. 977

A Bill for an Act Relating to Social Services.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-1, Hawaii Revised Statutes, is amended by adding a new definition of "Hawaii security net" to be appropriately inserted and to read:

"Hawaii security net" means those public and private assistance and social service programs designed to provide the basic necessities of life: food, clothing, shelter, and medical care."

SECTION 2. Section 346-14, Hawaii Revised Statutes, is amended to read as follows:

"§346-14 Duties generally. Except as otherwise provided by law, the department of social services and housing shall:

- (1) Administer, establish programs and standards, and promulgate rules as deemed necessary for all public assistance, including payments for medical care;
- (2) Establish, extend, and strengthen services for the protection and care of neglected children and children in danger of becoming delinquent;
- (3) Assist in preventing family breakdown;
- (4) Place, or cooperate in placing neglected children in suitable private homes or institutions, and place, or cooperate in placing, children in suitable adoptive homes;

- (5) Have authority to establish, maintain, and operate receiving homes for the temporary care and custody of neglected children until suitable plans are made for their care; and accept from the police and other agencies, for temporary care and custody, any neglected child until satisfactory plans are made for the child;
- (6) Cooperate with the federal government in carrying out the purposes of the Social Security Act, and in other matters of mutual concern pertaining to public welfare, public assistance, and child welfare services, including the making of such reports, the adoption of such methods of administration, and the making of such rules and regulations as are found by the federal government, or any properly constituted authority thereunder, to be necessary or desirable for the efficient operation of the plans for such public welfare, assistance, and child welfare services, or as may be necessary or desirable for the receipt of financial assistance from the federal government;
- (7) Carry on research and compile statistics relative to public and private welfare activities throughout the State, including those dealing with dependence, defectiveness, delinquency, and related problems;
- (8) Develop plans in cooperation with other public and private agencies for the prevention and treatment of conditions giving rise to public welfare problems;
- (9) Make such rules governing the procedure in hearings, investigations, recording, registration, determination of allowances, and accounting, and conduct such other activities as may be necessary or proper to carry out this chapter, which rules, when approved by the governor, shall have the force and effect of law;
- (10) Supervise or administer any other activities authorized or required by this chapter, including the development of the staff of the department through in-service training and educational leave to attend schools and other appropriate measures, and any other activities placed under the jurisdiction of the department by any other law;
- (11) Make, prescribe, and enforce such policies and rules governing the activities provided for in section 346-31 as it deems advisable, including the allocation of moneys available for assistance to persons assigned to work projects among the several counties or to particular projects where such apportionment has not been made pursuant to other provisions of law, if any, governing expenditures of the funds, which rules, when approved by the governor, shall have the force and effect of law[.];
- (12) Determine the appropriate level for the Hawaii security net by developing a tracking and monitoring system to determine what segments of the population are not able to afford the basic necessities of life, and advise the legislature annually regarding the resources required to maintain the security net at the appropriate level."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

A Bill for an Act Relating to Duties of Superintendent.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 296-11, Hawaii Revised Statutes, is amended to read as follows:

"§296-11 Duties of superintendent. Under policies established by the board of education, the superintendent of education shall administer programs of education and public instruction throughout the State, including education at the preschool, primary, and secondary school levels, health education and instruction, and such other programs as may be established by law.

Except as otherwise provided, the superintendent shall sign all drafts for the payment of moneys, all commissions and appointments, all deeds, official acts, or other documents of the department. [He] The superintendent may use a printed facsimile signature in approving appointments, contracts, and other documents. [He] The superintendent shall, at such time as may be prescribed by the board, present to the board full annual reports of the principal transactions within the department during the last completed year, which reports together with such recommendations as the board may think proper, shall be presented to the governor and the legislature.

The superintendent shall annually report to the governor on:

- (1) The number and percentage of students in public schools who, based on the statewide testing program, are scoring in each of the lowest three stanines in basic skills. Such a breakdown shall include statewide, districtwide, and individual school totals, and the number and percentage of students according to grade levels; and
- (2) The actions being taken by the department to improve these students' achievement levels; and
- (3) The progress of the students in the lowest three stanines to ascertain if these students are improving on a yearly basis; and
- (4) An analysis of the effectiveness of actions implemented to address the needs of these students.

The report shall be submitted to the legislature twenty days prior to the convening of each regular session and made available to the general public."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

ACT 299

H.B. NO. 1531

A Bill for an Act Relating to Workers' Compensation Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. The legislature finds that there exists an emergency situation in the State, as the economic well-being of the State is threatened by the escalation of workers' compensation insurance premium rates, which in these difficult economic times threatens to force a number of businesses into closing. The purpose of this Act is to provide for a moratorium on changes in workers' compensation insurance premium rates. Workers' compensation insurance premium rates have increased 87.3 per cent in Hawaii over the past five years, and the insurance commissioner of Hawaii has approved an average rate increase of twenty-nine per cent for 1983. These escalating rates have created hardship for many employers in the State, and threaten serious ramifications for the State as a whole. This Act extends relief to employers from any increase in premium rates for the moratorium period, while the legislature considers other appropriate action.

SECTION 2. The insurance commissioner of Hawaii, department of commerce and consumer affairs, shall not approve any increase in workers' compensation insurance premium rates before December 31, 1984.

SECTION 3. All licensed rating organizations which filed a workers' compensation rate filing applicable to the year January 1, 1984, to December 31, 1984, shall file by February 1, 1984, a workers' compensation insurance rate filing, for informational purposes only. Such filings shall comply with sections 431-693 and 431-694, Hawaii Revised Statutes.

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance is held invalid the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or applications, and to this end the provisions of this Act are severable.

SECTION 5. This Act shall take effect January 1, 1984.

(Approved June 14, 1983.)

ACT 300

H.B. NO. 1505

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

SECTION 2. The legislature finds that the economy of the State has followed the recent high unemployment and recessionary trends of the national economy. Persistent high interest rates for industrial enterprise borrowers together with the prevailing symptoms of recession combine to create special and substantial obstacles to the raising of new capital and the resulting lack of introduction of new

industry in the State. It is recognized that the establishment of new industry to diversify the economic base of the State, create new employment opportunities, increase tax revenues, and stimulate the inflow of new capital into the State, is desirable. The legislature therefore finds that the establishment of new industry should be one of the priority considerations in the issuance of special purpose revenue bonds.

The legislature further finds that part V, chapter 39A, Hawaii Revised Statutes, permits the State to financially assist in the establishment of new industry by using the proceeds from special purpose revenue bonds.

SECTION 3. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$10,000,000 in one or more series for the purpose of assisting Aloha Studios, Inc., a Hawaii corporation, or a partnership in which Aloha Studios, Inc., is a general partner, in the generation of new capital for the establishment of industrial enterprise facilities relating to the performing arts, including film and sound studios, post-production facilities, machinery, equipment, furnishings and apparatus, related activities and services, and support facilities. The legislature finds and determines that the activity and facilities of Aloha Studios, Inc., constitutes a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

Aloha Studios, Inc., shall be part of the department of budget and finance for administrative purposes only.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$10,000¹ or so much thereof as may be necessary for fiscal year 1983-1984, for support services to be provided to Aloha Studios, Inc., including the hiring of necessary staff. The sum appropriated shall be expended by the department of budget and finance.

SECTION 5. The special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 14, 1983.)

Note

1. Vetoed and initialed "GRA", 6-14-83.

A Bill for an Act Relating to the State Budget.

Be It Enacted by the Legislature of the State of Hawaii:

PART I. GENERAL PROVISIONS

SECTION 1. SHORT TITLE. This Act shall be known and may be cited as the General Appropriations Act of 1983.

SECTION 2. DEFINITIONS. Unless otherwise clear from the context, as used in this Act:

(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the organization responsible for carrying out the program, followed by the organization number for the program.

(b) "Expending agency" means the executive department, independent commission, bureau, office, board, or other establishment of the state government (other than the Legislature and the Judiciary), the political subdivision of the State, or any quasi-public institution supported in whole or in part by state funds, which is authorized to expend specified appropriations made by this Act. Abbreviations, where used to denote the expending agency, shall mean the following:

AGR	Department of Agriculture
AGS	Department of Accounting and General Services
ATG	Department of the Attorney General
BUF	Department of Budget and Finance
CCA	Department of Commerce and Consumer Affairs
DEF	Department of Defense
EDN	Department of Education
GOV	Office of the Governor
HHL	Department of Hawaiian Home Lands
HTH	Department of Health
LBR	Department of Labor and Industrial Relations
LNR	Department of Land and Natural Resources
LTG	Office of the Lieutenant Governor
PED	Department of Planning and Economic Development
PER	Department of Personnel Services
SOC	Department of Social Services and Housing
TRN	Department of Transportation
TAX	Department of Taxation
UOH	University of Hawaii
COH	County of Hawaii
CCH	City and County of Honolulu
COM	County of Maui
COK	County of Kauai

(c) "Source of funding" means the source from which funds are appropriated to be expended for the programs and projects specified in this Act. All appropriations are followed by letter symbols. Such letter symbols, where used, shall have the following meaning:

A	general fund
B	special funds
C	general obligation bond fund
D	general obligation bond fund with debt service cost to be paid from special funds
E	revenue bond funds
J	federal aid interstate funds
K	federal aid primary funds
L	federal aid secondary funds
M	federal aid urban funds
N	other federal funds
R	private contributions
S	county funds
T	trust funds
U	interdepartmental transfers
W	revolving funds
X	other funds

(d) "Position ceiling" means the maximum number of permanent positions that an expending agency is authorized for a particular program during a specified period or periods, as denoted by an asterisk.

(e) "Capital project number" means the official number of the capital project, as assigned by the responsible organization.

PART II. PROGRAM APPROPRIATIONS

SECTION 3. APPROPRIATIONS. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated or authorized, as the case may be, from the sources of funding specified to the expending agencies designated for the fiscal biennium beginning July 1, 1983 and ending June 30, 1985. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the number indicated for each year, except as provided elsewhere in this Act.

State of Hawaii		Program Appropriations				
Item No.	Program	Program ID.	Expending Agency	Appropriations		Total M Biennium O 1983-85 F
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	
A. ECONOMIC DEVELOPMENT						
1.	COMMERCE AND INDUSTRY	PED102		15.00*	15.00*	
	Operating		PED PED	800,235A 3,410,000W	803,792A 3,555,000W	1,604,027A 6,965,000W
2.	TRADE AND FINANCE	PED105		6.00*	6.00*	
	International Trade & Economic Cooperati Operating		PED	246,933A	217,644A	464,577A
3.	Foreign Trade Zone Services	PED107		25.00*	25.00*	
	Operating Investment: Capital		PED PED	1,118,215B 150,000D	1,148,395B D	2,266,610B 150,000D
4.	TOURISM	PED113		3.00*	3.00*	
	Operating		PED PED PED	3,512,914A 1,250,000R 95,000X	4,019,966A 1,500,000R 95,000X	7,532,880A 2,750,000R 190,000X
5.	AGRICULTURE	AGR101		15.00*	15.00*	
	Economic Assistance For Agriculture Financial Assistance For Agriculture Operating		AGR AGR	647,300B 2,000,000W	650,407B 2,000,000W	1,297,707B 4,000,000W

6.	Price & Production Controls For Dairy Pr Operating	AGR103	8.00* 190,999A	8.00* 191,827A	382,826A
7.	Productivity Imprvmnt & Mgt Asstnce For Agr Plant Pest and Disease Control Plant Quarantine	AGR121	41.91* 984,499A 630,795U	41.91* 966,466A 630,961U	1,950,965A 1,261,756U
8.	Plant Pest Control Operating Investment: Capital	AGR122	29.59* 895,002A 460,000C	29.59* 945,654A C	1,840,656A 460,000C
9.	Animal Pest and Disease Control Animal Quarantine Operating Investment: Capital	AGR131	39.00* 1,164,658A 64,131U 485,000C	39.00* 1,181,413A 64,131U C	2,346,071A 128,262U 485,000C
10.	Animal Disease Control Operating	AGR132	20.50* 700,949A 35,082T	20.50* 736,753A 36,297T	1,437,702A 71,379T
11.	Product Development and Marketing For Agr Forestry—Products Development Operating	LNR172	30.00* 860,381A 77,654N	30.00* 845,442A 77,654N	1,705,823A 155,308N
12.	Distribution Systems Improvement For Agr Operating	AGR151	38.00* 1,353,877A	38.00* 1,153,583A	2,507,460A

Program Appropriations

State of Hawaii							
Item No.	Program	Program ID.	Expending Agency	Appropriations		Total M Biennium O 1983-85 F	
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F		
13.	General Support For Agr	AGR189					
	Data Collection For Agr						
	Operating						
14.	General Administration For Agr	AGR192					
	Operating						
	Investment: Capital						
15.	FISHERIES & AQUACULTURE	AGR102					
	Financial Assistance For Aquaculture						
	Operating						
16.	Commercial Fishery and Aquaculture	LNR153					
	Operating						
17.	ENERGY DEVELOPMENT AND MANAGEMENT	PED120					
	Operating						
	Investment: Capital						

18. WATER DEVELOPMENT & IRRIGATION SERVICES LNR141

Operating	LNR	19.00*	19.00*	
Investment: Capital	LNR	528,889A	671,850A	1,200,739A
	LNR	615,700B	459,950B	1,075,650B
	LNR	2,310,000C	1,950,000C	4,260,000C

ECON PLANNING & COORD FOR ECON DEVELOPME

19. Econ Planning & Research For Econ Devpmt	PED130			
Operating	PED	12.00*	12.00*	
		426,390A	433,412A	859,802A

20. General Support For Marine Programs	PED109			
Operating	PED	4.00*	4.00*	
		580,662A	639,575A	1,220,237A

21. General Support For Economic Development	PED142			
Operating	PED	24.00*	24.00*	
		766,914A	788,779A	1,555,693A

B. EMPLOYMENT
FULL OPPORTUNITY TO WORK

1. Placement Services	LBR111			
Operating	LBR	3.00*	3.00*	
		57,918A	57,861A	115,779A
		150.25*	150.25*	

2. Apprenticeship & Other Training Programs	LBR123			
Operating	LBR	6,768,828N	6,950,966N	13,719,794N
	LBR	7.00*	7.00*	
		175,387A	175,710A	351,097A

3. Employment and Training Programs	LBR131			
Operating	LBR	287,627A	297,261A	584,888A
		15.00*	15.00*	
	LBR	3,313,256N	3,313,256N	6,626,512N

Program Appropriations

State of Hawaii

Item No.	Program	Program ID.	Expending Agency	Appropriations			Total M Biennium O 1983-85 F
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F		
4.	Commission On Manpower and Full Employme Operating	LBR135	LBR LBR	6.00* 127,946A 119,978N	6.00* 128,526A 99,198N		256,472A 219,176N
5.	Occupational Safety & Health Operating	LBR143	LBR LBR	50.50* 1,232,992A 29.50*	50.50* 1,249,596A 29.50*		2,482,588A 1,990,188N
6.	FAIR AND JUST EMPLOYMENT PRACTICES Wage Standards & Fair Employment Practic Operating	LBR152	LBR LBR	29.00* 744,358A 43,566N	29.00* 751,488A 43,566N		1,495,846A 87,132N
7.	LABOR-MANAGEMENT RELATIONS Public Employment Operating	LBR161	LBR	3.00* 443,467A	3.00* 451,340A		894,807A
8.	Private Employment Operating	LBR162	LBR	1.00* 33,888A	1.00* 34,476A		68,364A
9.	ASSISTANCE IN WORK RELATED DIFFICULTIES Unemployment Compensation Operating	LBR171	LBR	2,027,988A	2,004,477A		4,032,465A

10.	Disability Compensation	LBR183	LBR	77,600,000B 270.85*	79,800,000B 270.85*	157,400,000B
	Operating		LBR	7,468,672N	7,577,066N	15,045,738N
11.	Vocational Rehabilitation	SOC802	LBR	86.00*	86.00*	3,917,475A
	Operating		LBR	1,948,883A 8,235,000B	1,968,592A 9,235,000B	17,470,000B
12.	OVERALL PROGRAM SUPPORT DLIR-Data Gathering, Research and Analys	LBR901	SOC	33.70*	33.70*	4,060,965A
	Operating		SOC	1,986,247A 428,000B 93.30*	2,074,718A 457,960B 93.30*	885,960B
			SOC	3,166,883N	3,166,883N	6,333,766N
13.	General Administration	LBR902	LBR	8.40*	8.40*	1,475,926A
	Operating		LBR	728,828A 26.60*	747,098A 26.60*	2,213,357N
14.	Labor & Industrial Relations Appeals Boa	LBR812	LBR	24.20*	24.20*	2,292,567A
	Operating		LBR	1,142,771A 38.30*	1,149,796A 38.30*	3,693,414N
			LBR	1,824,678N	1,868,736N	627,018A
			LBR	8.00*	8.00*	
			LBR	319,623A	307,395A	
C. TRANSPORTATION FACILITIES						
1.	AIR TRANSPORTATION FACILITIES AND SVCS HIA Facilities & Svcs	TRN102				

Program Appropriations

State of Hawaii

Item No.	Program	Program ID.	Expending Agency	Appropriations		Total M Biennium O 1983-85 F
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	
	Operating Investment: Capital		TRN	444.00*	444.00*	
				27,056,313B	26,264,888B	53,321,201B
				26,260,000B	31,630,000B	57,890,000B
				25,465,000E	26,870,000E	52,335,000E
			TRN	100,000N	2,100,000N	2,200,000N
2.	General Aviation Facilities and Services	TRN104		2.00*	2.00*	
	Operating		TRN	567,441B	157,536B	724,977B
3.	General Lyman Field Facilities & Service	TRN111				
	Operating		TRN	76.00*	76.00*	
				3,604,519B	3,619,248B	7,223,767B
4.	Ke-ahole Airport Facilities and Services	TRN114				
	Operating Investment: Capital		TRN	54.00*	54.00*	
			TRN	2,493,219B	2,461,148B	4,954,367B
			TRN	2,985,000E	2,100,000E	5,085,000E
			TRN	200,000N	N	200,000N
5.	Waimea-Kohala Airport Facilities & Servi	TRN116				
	Operating		TRN	3.00*	3.00*	
				532,552B	148,095B	680,647B
6.	Upolu Airport Facilities & Services	TRN118				
	Operating		TRN	37,180B	13,530B	50,710B
7.	Kahului Airport Facilities and Services	TRN131				
				68.00*	68.00*	

Operating Investment: Capital	TRN	3,294,211B	3,236,854B	6,531,065B
	TRN	10,350,000E	11,560,000E	21,910,000E
	TRN	100,000N	N	100,000N
8. Hana Airport Facilities and Services	TRN133			
Operating	TRN	1.00*	1.00*	
		151,349B	41,296B	192,645B
9. Molokai Airport Facilities and Services	TRN141			
Operating	TRN	7.00*	7.00*	
Investment: Capital	TRN	887,057B	342,958B	1,230,015B
	TRN	440,000E	375,000E	815,000E
10. Kalaupapa Airport Facilities and Service	TRN143			
Operating	TRN	1.00*	1.00*	
		75,723B	25,222B	100,945B
11. Lanai Airport Facilities and Services	TRN151			
Operating	TRN	3.00*	3.00*	
		117,378B	208,410B	325,788B
12. Lihue Airport Facilities and Services	TRN161			
Operating	TRN	57.00*	57.00*	
Investment: Capital	TRN	2,422,516B	2,396,867B	4,819,383B
	TRN	25,925,000E	E	25,925,000E
	TRN	100,000N	N	100,000N
13. Port Allen Airport Facilities and Service	TRN163			
Operating	TRN	750B	797B	1,547B
14. Air Transportation Facilities & Svcs Sup	TRN195			
Operating	TRN	61.00*	61.00*	
Investment: Capital	TRN	57,177,159B	67,536,038B	124,713,197B
	TRN	300,000B	150,000B	450,000B
	TRN	9,940,000E	E	9,940,000E
	TRN	100,000N	N	100,000N

Program Appropriations

State of Hawaii							
Item No.	Program	Program ID.	Expending Agency	Appropriations		Total M Biennium O 1983-85 F	
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F		
WATER TRANSPORTATION FACILITIES AND SERV							
15.	Honolulu Harbor Facilities and Services	TRN301					
	Operating		TRN	129.00*	129.00*	14,768,568B	
	Investment: Capital		TRN	7,230,888B	7,537,680B	1,973,000B	
			TRN	258,000B	1,715,000B	3,882,000E	
				3,882,000E	E		
16.	Barbers Point Harbor Facilities and Serv	TRN303	TRN	B	250,000B	250,000B	
17.	Kewalo Basin Facilities and Services	TRN305					
	Operating		TRN	3.00*	3.00*	744,102B	
	Investment: Capital		TRN	368,624B	375,478B	4,750,000C	
				C	4,750,000C		
18.	Hilo Harbor Facilities and Services	TRN311					
	Operating		TRN	10.00*	10.00*	1,649,787B	
	Investment: Capital		TRN	794,932B	854,855B	352,000B	
				32,000B	320,000B		
19.	Kawaihae Harbor Facilities and Services	TRN313					
	Operating		TRN	5.00*	5.00*	666,988B	
				327,405B	339,583B		
20.	Kahului Harbor Facilities and Services	TRN331					
	Operating		TRN	12.00*	12.00*	1,522,708B	
	Investment: Capital		TRN	763,217B	759,491B	282,000B	
			TRN	282,000B		1,690,000E	
				1,690,000E	E		

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Program Appropriations

State of Hawaii		Program Appropriations				
Item No.	Program	Program ID.	Expending Agency	Appropriations		Total M Biennium O 1983-85 F
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	
28.	Molokai Highways and Services	TRN541		12.00*	12.00*	
	Operating		TRN	371,949B	468,220B	840,169B
	Investment: Capital		TRN	D	520,000D	520,000D
			TRN	L	1,215,000L	1,215,000L
29.	Lanai Highways and Services	TRN551		3.00*	3.00*	
	Operating		TRN	76,760B	137,472B	214,232B
30.	Kauai Highways and Services	TRN561		41.00*	41.00*	
	Operating		TRN	1,599,189B	1,977,437B	3,576,626B
	Investment: Capital		TRN	D	416,000D	416,000D
			TRN	N	827,000N	827,000N
31.	Land Transportation Fac & Svcs Support	TRN595		46.00*	46.00*	
	Operating		TRN	26,373,825B	29,585,036B	55,958,861B
	Investment: Capital		TRN	490,000B	280,000B	770,000B
			TRN	D	675,000D	675,000D
			TRN	900,000N	2,044,000N	2,944,000N
32.	Safety Administration of Land Transporta	TRN597		17.50*	17.50*	
	Operating		TRN	537,188B	540,832B	1,078,020B
				4.50*	4.50*	
			TRN	119,825N	119,933N	239,758N

33.	Overall Program Support for Trans Fac & Operating	TRN995	TRN	84.00* 3,650,903B	84.00* 3,636,237B	7,287,140B
D. ENVIRONMENTAL PROTECTION						
POLLUTION CONTROL						
1.	Solids, Liquids, Gases, and Noise	HTH840	HTH	45.50* 1,069,503A 13.00* 1,253,317N 2,519,000C	46.50* 1,095,623A 12.00* 1,205,489N 2,519,000C	2,165,126A 2,458,806N 5,038,000C
2.	Pesticides	AGR846	AGR	9.50* 222,716A	13.50* 287,777A	509,993A
PRESERVATION AND ENHANCEMENT						
3.	Aquatic Resources	LNR401	LNR	16.00* 351,639A 49,379N	16.00* 355,265A 49,668N	706,904A 99,047N
4.	Forests and Wildlife Resources	LNR402	LNR	49.00* 1,235,125A 253,600N 25,000C	49.00* 1,266,019A 253,600N 40,000C	2,501,144A 507,200N 65,000C
5.	Mineral Resources	LNR403	LNR	2.00* 48,535A	2.00* 48,893A	97,428A
6.	Water Resources	LNR404	LNR	13.00* 876,889A	13.00* 929,725A	1,806,614A

State of Hawaii

Program Appropriations					Appropriations		
Item No.	Program	Program ID.	Expendig Agency	Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
7.	Conservation & Resources Enforcement	LNR405		68.00*	68.00*		
	Operating		LNR	1,678,738A	1,714,932A	3,393,670A	
			LNR	19,545N	19,914N	39,459N	
8.	Coastal Areas Operating	TRN903	TRN	12,600A	13,480A	26,080A	
GENERAL SUPPORT FOR NAT PHYS ENVIRON- MENT							
9.	Policy Dvlpment, Coord & Anlys For Nat P	HTH850	HTH	11.00*	11.00*		
	Operating			309,163A	317,977A	627,140A	
10.	LNR—Natural Physical Environment	LNR906		31.50*	31.50*		
	Operating		LNR	949,310A	962,372A	1,911,682A	
			LNR	21,707N	22,785N	44,492N	
11.	HTH—Natural Physical Environment	HTH849		8.00*	8.00*		
	Operating		HTH	574,122A	606,006A	1,180,128A	
			HTH	3.00*	3.00*		
				203,940N	206,315N	410,255N	
E. HEALTH							
PHYSICAL HEALTH							
Communicable Diseases							
1.	Tuberculosis	HTH101					

Operating	HTH	44.00*	44.00*	1,269,931A	2,515,216A
	HTH	1,245,285A	40,000N	40,424N	80,424N
2. Hansen's Disease	HTH111				
Operating	HTH	77.00*	77.00*	3,139,057A	6,214,311A
	HTH	3,075,254A	150,000B	155,000B	305,000B
3. Venereal Disease	HTH121				
Operating	HTH	10.00*	10.00*	357,228A	700,806A
	HTH	343,578A	4,00*	4,00*	375,527N
	HTH	186,240N		189,287N	
4. Other Communicable Diseases	HTH131				
Operating	HTH	9.00*	9.00*	397,789A	783,434A
	HTH	385,645A	1.00*	1.00*	182,774N
	HTH	90,417N		92,357N	
5. Supporting Services For Commun Diseases	HTH139				
Operating	HTH	5.00*	5.00*	208,888A	373,870A
	HTH	164,982A			
6. Dental Diseases	HTH141				
Operating	HTH	46.20*	46.20*	932,513A	1,864,817A
	HTH	932,304A			
7. Chronic Diseases	HTH151				
Operating	HTH	5.00*	5.00*	859,757A	1,700,828A
	HTH	841,071A			
8. Nutrition Services	HTH160				
Operating	HTH	7.75*	7.75*	175,089A	350,154A
	HTH	175,065A	7.00*	175,089A	350,154A
	HTH	7.00*		7.00*	

Program Appropriations

Item No.	Program	Program ID.	Expanding Agency	Appropriations		Total M Biennium O 1983-85 F
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	
9.	Emergency Medical Services	HTH170	HTH	2,791,030N	2,909,145N	5,700,175N
	Operating		HTH	6.00*	6.00*	
			HTH	12,621,044A	13,586,186A	26,207,230A
				271,793N	271,793N	543,586N
10.	Family Planning	HTH185		5.00*	5.00*	
	Operating		HTH	150,445A	153,868A	304,313A
			HTH	5.00*	5.00*	
				727,376N	727,376N	1,454,752N
11.	School Health Services	HTH191		215.80*	216.45*	
	Operating		HTH	4,585,761A	4,637,332A	9,223,093A
12.	Health Care Services	HTH801		43.00*	43.00*	
	Operating		HTH	2,064,777A	2,139,734A	4,204,511A
			HTH	46.00*	46.00*	
				1,747,399N	1,740,213N	3,487,612N
13.	HOSPITAL CARE	HTH211		337,311A	295,030A	632,341A
	Hilo Hospital		HTH	541.20*	541.20*	
	Operating		HTH	17,007,456B	17,306,329B	34,313,785B

14.	Honokaa Hospital Operating	HTH212	HTH	427,822A 46.00*	455,048A 46.00*	882,870A
			HTH	1,175,715B	1,170,458B	2,346,173B
15.	Ka'u Hospital Operating	HTH213	HTH	540,363A 32.00*	579,475A 32.00*	1,119,838A
			HTH	492,975B	472,504B	965,479B
16.	Kohala Hospital Operating	HTH214	HTH	572,771A 36.50*	593,658A 36.50*	1,166,429A
			HTH	634,102B	626,940B	1,261,042B
17.	Kona Hospital Operating	HTH215	HTH	1,756,820A 188.00*	1,848,461A 188.00*	3,605,281A
			HTH	4,562,791B	4,489,875B	9,052,666B
18.	Maui Memorial Hospital Operating	HTH221	HTH	716,495A 420.00*	798,037A 420.00*	1,514,532A
			HTH	14,934,052B	15,123,210B	30,057,262B
19.	Hana Medical Center Operating	HTH222	HTH	379,246A 7.00*	334,323A 7.00*	713,569A
			HTH	144,382B	98,615B	242,997B
20.	Kula Hospital Operating	HTH223	HTH	1,029,268A 177.00*	1,036,952A 177.00*	2,066,220A
			HTH	3,578,091B	3,587,353B	7,165,444B
21.	Lanai Hospital Operating	HTH224	HTH	60,242A	63,739A	123,981A

State of Hawaii						
Program Appropriations						
Item No.	Program	Program ID.	Expending Agency	Appropriations		Total M Biennium O 1983-85 F
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	
22.	Kauai Veterans Memorial Hospital Operating	HTH231	HTH	21.00*	21.00*	1,257,977B
				639,710B	618,267B	
			HTH	1,421,242A	1,428,531A	2,849,773A
				138.00*	138.00*	
			HTH	3,305,465B	3,283,339B	6,588,804B
23.	Samuel Mahelona Memorial Hospital Operating	HTH232	HTH	893,038A	944,643A	1,837,681A
				146.00*	146.00*	
			HTH	2,962,319B	2,943,724B	5,906,043B
24.	Maluhia Hospital Operating	HTH241	HTH	527,652A	544,068A	1,071,720A
				182.00*	182.00*	
			HTH	4,599,178B	4,622,410B	9,221,588B
25.	Leahi Hospital Operating	HTH242	HTH	2,301,464A	2,488,392A	4,789,856A
				295.00*	295.00*	
	Investment: Capital		HTH	6,117,500B	6,066,994B	12,184,494B
	MENTAL HEALTH		AGS		6,139,000C	6,139,000C
26.	Community Based Services for MH Operating	HTH401	HTH	331.00*	321.50*	20,207,553A
				10,056,354A	10,151,199A	
				3.00*	3.00*	

27.	Hawaii State Hospital	HTH430	HTH	1,943,796N	1,569,293N	3,513,089N
	Operating					
	Investment: Capital					
				404.00*	404.00*	
			HTH	8,722,771A	8,778,258A	17,501,029A
			AGS	C	1,271,000C	1,271,000C
28.	General Support for MH	HTH495				
	Operating					
			HTH	34.50*	34.50*	
				964,495A	978,487A	1,942,982A
			HTH	1.00*	1.00*	
				163,984N	148,845N	312,829N
29.	MENTAL RETARDATION	HTH500				
	Identification, Evaluation & Treatmt for					
	Operating					
			HTH	52.85*	52.85*	
			HTH	2,137,884A	2,203,909A	4,341,793A
				246,902N	249,424N	496,326N
30.	Community Based Services for MR	HTH501				
	Operating					
			HTH	51.00*	51.00*	
				1,864,513A	1,925,894A	3,790,407A
31.	Waimano Training School and Hospital	HTH511				
	Operating					
			HTH	566.00*	566.00*	
			HTH	11,391,040A	11,481,679A	22,872,719A
			HTH	78,189N	85,226N	163,415N
			HTH	7,448,107X	8,328,101X	15,776,208X
32.	COMMUNITY HEALTH SERVICES	HTH601				
	Vector Control					
	Operating					
			HTH	86.00*	86.00*	
				1,702,283A	1,730,632A	3,432,915A
			HTH	2.00*	2.00*	
				37,152X	37,327X	74,479X
33.	Sanitation & Substance Control	HTH611				

Program Appropriations

State of Hawaii						
Item No.	Program	Program ID.	Expending Agency	Appropriations		Total M Biennium O 1983-85 F
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	
34.	Operating	HTH621	HTH	85.50* 2,031,752A	85.50* 2,037,469A	4,069,221A
	Drinking Water Quality					
	Operating		HTH	3.00* 75,947A 1.00* 381,273N	3.00* 75,947A 1.00* 367,679N	151,894A 748,952N
35.	Medical Facilities-Stds, Inspection, Licens	HTH701	HTH	9.00* 228,531A 6.00* 200,936N	9.00* 230,695A 6.00* 203,629N	459,226A 404,565N
	Operating					
			HTH			
OVERALL PROGRAM SUPPORT						
36.	Laboratory Services	HTH901	HTH	54.50* 1,430,032A	54.50* 1,368,821A	2,798,853A
	Operating					
			HTH			
37.	Public Health Nursing Services	HTH902	HTH	139.00* 3,401,895A 4.00* 19,249B 126,564N	139.00* 3,438,335A 4.00* 19,249B 126,564N	6,840,230A 38,498B 253,128N
	Operating					
			HTH			
38.	Records, Data Collection and Research	HTH903	HTH	36.00* 36.00*	36.00* 36.00*	

39.	Operating	HTH	962,379A	964,816A	1,927,195A
	Health Education	HTH908			
40.	Operating	HTH	17.00*	17.00*	
	Comprehensive Health Planning	HTH906	647,835A 261,449N	659,882A 261,449N	1,307,717A 522,898N
41.	Operating	HTH	6.00*	6.00*	454,872A
	General Administration	HTH907	264,936A 11.50*	189,936A 11.50*	1,027,456N
42.	Operating	HTH	122.00*	122.00*	6,883,963A
	Private Hospitals & Medical Services	SUB601	3,418,177A 15.00*	3,465,786A 15.00*	2,190,639B
F. SOCIAL SERVICES	Operating	HTH	1,075,856B 5.50*	1,114,783B 5.50*	867,619N
	Operating	HTH	433,021N	434,598N	
1.	Operating	SOC	581,620A	550,270A	1,131,890A
	SERVICES TO INDIVIDUALS AND FAMILIES	SOC111			
2.	Operating	SOC	88.99*	88.99*	11,537,734A
	Operating	SOC	5,692,042A 199.01*	5,845,692A 199.01*	23,214,354N 257,760U
ASSURED STANDARD OF LIVING	Operating	SOC	11,626,463N 128,880U	11,587,891N 128,880U	90,875,387A
	Operating	SOC	44,445,715A	46,429,672A	
2.	Operating	SOC			
	Operating	SOC201			

Program Appropriations

State of Hawaii								
Item No.	Program	Program ID.	Expending Agency	Appropriations			Total M Biennium O 1983-85 F	
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F			
			SOC	48,771,434N	50,937,963N		99,709,397N	
3.	Paymnts to Assist the Aged, Blind & Disa Operating	SOC202	SOC	6,709,476A	6,808,985A		13,518,461A	
			SOC	335,000N	335,000N		670,000N	
4.	Paymnts to Assist in Child Welfr Foster Operating	SOC203	SOC	1,806,306A	1,936,067A		3,742,373A	
			SOC	72,375N	77,436N		149,811N	
5.	Other General Assistance Payments Operating	SOC204	SOC	18,686,314A	19,753,318A		38,439,632A	
			SOC	3,050,000N	3,050,000N		6,100,000N	
6.	Housing Assistance Rental Housing Augmentation and Assistan Operating	SOC220		9.00*	9.00*			
			SOC	1,297,094A	1,460,972A		2,758,066A	
			SOC	26.50*	26.50*			
			SOC	1,671,354B	1,754,544B		3,425,898B	
			SOC	183.00*	183.00*			
			SOC	16,773,332N	17,647,736N		34,421,068N	
7.	Private Housing Development & Ownership Operating	SOC225		17.00*	17.00*			
			SOC	1,582,156B	1,602,523B		3,184,679B	
8.	Broadened Homesite Ownership	SOC223		1.00*	1.00*			

9.	Operating		SOC	413,520B	431,809B	845,329B
	Teacher Housing	SOC807				
	Operating		SOC	1.50*	1.50*	
				241,828B	253,810B	495,638B
10.	Housing Assistance Administration	SOC229				
	Operating		SOC	14.00*	14.00*	
				921,869B	942,519B	1,864,388B
			SOC	14.00*	14.00*	
				668,726N	681,931N	1,350,657N
11.	Health Care Payments	SOC230				
	Operating		SOC	103,801,937A	101,592,753A	205,394,690A
			SOC	79,067,080N	78,003,600N	157,070,680N
			SOC	7,448,107U	8,328,101U	15,776,208U
12.	Veterans Cemeteries and Burial Payments	SUB806				
	Operating		HTH	36,250A	36,250A	72,500A
13.	GENERAL SUPPORT FOR ASSURED STD OF LIVIN					
	Eligibility Determination	SOC236				
	Operating		SOC	358.68*	358.68*	
				8,284,058A	8,208,914A	16,492,972A
			SOC	276.32*	276.32*	
				7,126,110N	7,267,553N	14,393,663N
14.	Disability Determination	SOC238				
	Operating		SOC	51.00*	51.00*	
				1,755,828N	1,825,643N	3,581,471N
15.	SERVICES TO NATIVE HAWAIIANS					
	Plngng, Devpmt and Mgt for Hawn Homesd L	HHL602				
	Operating		HHL	44.00*	44.00*	
	Investment: Capital		HHL	1,479,952B	1,559,174B	3,039,126B
				840,000C	1,620,000C	2,460,000C

Program Appropriations

State of Hawaii		Program Appropriations				
Item No.	Program	Program ID.	Expending Agency	Appropriations Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
16.	General Support for Native Hawaiians Operating	HHL625	HHL	24.00* 818,163B	24.00* 830,391B	1,648,554B
OVERALL PROGRAM SUPPORT FOR SOCIAL SERVI						
17.	Progressive Neighborhoods Program Operating	GOV859	GOV GOV	5.00* 743,745A 200,000N	5.00* 879,921A 700,000N	1,623,666A 900,000N
18.	Hawaii Office of Economic Opportunity Operating	GOV860	GOV GOV	1.00* 829,815A 3.00* 1,215,000N	1.00* 875,486A 3.00* 1,215,000N	1,705,301A 2,430,000N
19.	Plan, Prgm Dev & Coord of Svcs for Chd & Operating	GOV861	GOV	9.00* 338,280A	9.00* 333,410A	671,690A
20.	Plan, Prgm Dev & Coord of Svcs for Elder Operating	GOV602	GOV GOV	5.80* 2,683,807A 8.20* 4,168,261N	5.80* 2,730,647A 8.20* 3,724,566N	5,414,454A 7,892,827N
21.	Plan, Prgm Dev & Coord of Svcs for Handi	HTH520		2.00*	2.00*	

Operating	HTH	156,619A	160,014A	316,633A
22. Plan, Prgm Dev & Coord of Svcs for Immig	GOV803			
Operating	GOV	2.00*	2.00*	210,807A
		102,963A	107,844A	
23. General Support for Public Welfare	SOC903			
Operating	SOC	38.74*	38.74*	3,143,864A
		1,552,855A	1,591,009A	
		50.26*	50.26*	4,085,195N
		2,020,408N	2,064,787N	
24. General Administration (DSSH)	SOC904			
Operating	SOC	150.87*	150.87*	6,375,443A
		3,141,006A	3,234,437A	
		17.13*	17.13*	1,034,435N
		512,583N	521,852N	

G. FORMAL EDUCATION

LOWER EDUCATION

Instruction				
1. Regular Instruction Program	EDN105			
Operating	EDN	6,180.50*	6,174.50*	325,307,647A
		162,492,977A	162,814,670A	22,606,769N
Investment: Capital	AGS	11,357,539N	11,249,230N	39,546,000C
		20,977,000C	18,569,000C	
2. Other Regular Instruction Programs	EDN106			
Operating	EDN	549.50*	549.50*	45,682,214A
		24,251,123A	21,431,091A	2,267,082B
		1,133,541B	1,133,541B	2,511,090N
		1,224,922N	1,286,168N	
3. Exceptional Child Program	EDN107			
Operating	EDN	958.00*	963.50*	51,228,770A
		25,543,399A	25,685,371A	

State of Hawaii		Program Appropriations				
Item No.	Program	Program ID.	Expending Agency	Appropriations		Total M Biennium O 1983-85 F
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	
4.	Compensatory Education	EDN108	EDN	23,126B	23,126B	46,252B
	Operating		EDN	3,744,479N	3,754,479N	7,498,958N
				108.00*	108.00*	
			EDN	9,222,994A	5,221,752A	14,444,746A
			EDN	11,310,897N	12,359,182N	23,670,079N
5.	Instructional Administration and Support	EDN203	EDN	810.50*	810.50*	
	School Administration			21,803,398A	21,843,066A	43,646,464A
	Operating					
6.	Instructional Media	EDN204	EDN	262.50*	262.50*	
	Operating			8,065,189A	8,121,027A	16,186,216A
7.	Instructional Development	EDN205	EDN	109.00*	109.00*	
	Operating		EDN	5,262,786A	5,049,955A	10,312,741A
			EDN	1,455,100N	1,470,030N	2,925,130N
8.	Counseling	EDN206	EDN	312.00*	312.00*	
	Operating			8,655,571A	8,688,890A	17,344,461A
9.	Student Activities	EDN207	EDN	35.00*	35.00*	
	Operating			3,078,355A	3,078,355A	6,156,710A

10.	Psychological & School Social Work Services Operating	EDN208	EDN	162.00* 4,632,610A	162.00* 4,632,616A	9,265,226A
11.	Institutional Administration and Support State Administration Operating	EDN303	EDN EDN	213.00* 7,516,613A 487,551N	213.00* 7,587,129A 514,300N	15,103,742A 1,001,851N
12.	District Administration Operating	EDN304	EDN	218.00* 7,909,433A	218.00* 7,453,472A	15,362,905A
13.	School Food Services Operating	EDN305	EDN EDN EDN	194.00* 10,806,749A 696.50* 9,218,118B 13,862,479N	194.00* 11,618,860A 696.50* 10,621,309B 13,910,053N	22,425,609A 19,839,427B 27,772,532N
14.	Safety and Security Services Operating	EDN306	EDN	2,216,144A	2,233,964A	4,450,108A
15.	Physical Plant Operations & Maintenance- Operating	EDN307	EDN	1,014.10* 27,329,598A	1,014.10* 27,614,131A	54,943,729A
16.	Physical Plant Operations & Maintenance- Operating	AGS807	AGS	231.00* 8,023,548A	231.00* 8,140,782A	16,164,330A
17.	Student Transportation Operating Public Service	AGS808	AGS	8.00* 16,046,781A	8.00* 17,362,665A	33,409,446A

Program Appropriations

State of Hawaii		Program Appropriations				Total M Biennium O 1983-85 F	
Item No.	Program	Program ID.	Expanding Agency	Appropriations Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F		
18.	Adult Education	EDN406		23.00*	23.00*		
	Operating		EDN	2,273,494A	2,270,092A	4,543,586A	
			EDN	489,894B	489,894B	979,788B	
			EDN	459,555N	459,555N	919,110N	
19.	Public Libraries	EDN407		441.55*	441.55*		
	Operating		EDN	12,176,866A	12,327,128A	24,503,994A	
	Investment: Capital		AGS	355,000C	550,000C	905,000C	
HIGHER EDUCATION							
20.	University of Hawaii, Manoa Instruction—UOH, Manoa	UOH101		1,520.54*	1,520.54*		
	Operating		UOH	50,630,241A	50,872,016A	101,502,257A	
				6.00*	6.00*		
			UOH	4,096,574B	4,206,052B	8,302,626B	
			UOH	277,785N	277,785N	555,570N	
	Investment: Capital		AGS	5,611,000C	392,000C	6,003,000C	
21.	Organized Research—UOH, Manoa Research and Development	UOH102		150,000A	A		
	Operating		UOH	480.72*	480.72*	150,000A	
			UOH	18,919,667A	19,390,055A	38,309,722A	
				34.42*	34.42*		
			UOH	1,208,527N	1,236,295N	2,444,822N	
			UOH	1,552,367W	1,688,114W	3,240,481W	
	Investment: Capital		AGS	C	2,000,000C	2,000,000C	

22.	Public Service—UOH, Manoa	UOH103	88.41*	88.41*	
	Operating	UOH	3,209,209A	3,270,266A	6,479,475A
		UOH	12.00*	12.00*	
		UOH	1,982,413B	2,045,932B	4,028,345B
		UOH	43.64*	43.64*	
		UOH	1,346,341N	1,372,284N	2,718,625N
		UOH	45,255W	47,972W	93,227W
23.	Academic Support—UOH, Manoa	UOH104	357.27*	357.27*	
	Operating	UOH	12,624,213A	12,220,575A	24,844,788A
		UOH	10.00*	10.00*	
		UOH	842,142B	881,483B	1,723,625B
		UOH	6.00*	6.00*	
		UOH	900,381W	961,281W	1,861,662W
24.	Student Services—UOH, Manoa	UOH105	157.75*	157.75*	
	Operating	UOH	4,580,385A	4,615,221A	9,195,606A
		UOH	.25*	.25*	
		UOH	232,288B	256,637B	488,925B
		UOH	842,000N	842,000N	1,684,000N
		UOH	113.75*	113.75*	
		UOH	18,327,236W	19,760,448W	38,087,684W
		UOH	26.00*	26.00*	
	Investment: Capital	UOH	4,276,235X	4,560,700X	8,836,935X
		AGS	B	302,000B	302,000B
		AGS	2,740,000C	360,000C	3,100,000C
25.	Institutional Support—UOH, Manoa	UOH106	373.50*	373.50*	
	Operating	UOH	17,926,904A	18,008,357A	35,935,261A
		UOH	12.00*	12.00*	
		UOH	734,389B	764,885B	1,499,274B
		UOH	8.00*	8.00*	
	Investment: Capital	UOH	2,266,594W	2,445,908W	4,712,502W
		AGS	1,000,000C	700,000C	1,700,000C

Program Appropriations

State of Hawaii		Program Appropriations				Total M Biennium O 1983-85 F	
Item No.	Program	Program ID.	Expendig Agency	Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F		
26.	University of Hawaii, Hilo Instruction—UOH, Hilo	UOH211		195.50*	195.50*	12,054,798A 931,694B 206,446N 409,735W 1,975,000C	
				6,009,257A	6,045,541A		
				UOH	468,566B		
				UOH	103,223N		
				UOH	213,129W		
27.	Investment: Capital	UOH213		1,975,000C		97,148A 358,911B	
				48,426A	48,722A		
				UOH	182,057B		
				UOH			
28.	Academic Support—UOH, Hilo	UOH214		43.00*	43.00*	3,576,954A 443,732B	
				1,778,742A	1,798,212A		
				UOH	7.00*		
				UOH	225,403B		
29.	Student Services—UOH, Hilo	UOH215		25.00*	25.00*	2,142,101A 789,086N 1,609,862W 224,274X	
				1,051,261A	1,090,840A		
				UOH	394,543N		
				UOH	6.00*		
				UOH	840,046W		
30.	Institutional Support - UOH, Hilo	UOH216		108,190X	116,084X		
				44.00*	44.00*		

31.	Operating	UOH	1,840,006A	1,944,669A	3,784,675A
	Investment: Capital	UOH	34,977B	37,720B	72,697B
		AGS	45,000C	455,000C	500,000C
Honolulu Community College					
31.	Instruction—Honolulu Community College	UOH301			
	Operating	UOH	123.00*	123.00*	
		UOH	3,995,285A	3,972,409A	7,967,694A
32.	Investment: Capital	UOH	180,828N	180,828N	361,656N
		UOH	205,447W	223,424W	428,871W
		AGS	4,888,000C	C	4,888,000C
Public Service—Honolulu Community College					
32.	Operating	UOH	7.00*	7.00*	
		UOH	588,419A	592,920A	1,181,339A
		UOH	238,895B	243,457B	482,352B
Academic Support—Honolulu Community Col					
33.	Operating	UOH	28.00*	28.00*	
		UOH	714,522A	724,650A	1,439,172A
		UOH304			
34.	Student Services—Honolulu Community Col	UOH	20.00*	20.00*	
	Operating	UOH	532,858A	536,023A	1,068,881A
		UOH	111,000N	111,000N	222,000N
35.		UOH	5,441W	5,801W	11,242W
	Institutional Support—Honolulu CC	UOH305			
	Operating	UOH	36.00*	36.00*	
36.	Investment: Capital	UOH	1,455,941A	1,462,790A	2,918,731A
		UOH	41,681B	45,070B	86,751B
		AGS	88,618W	95,800W	184,418W
36.	Kapiolani Community College		549,000C	C	549,000C
	Instruction—Kapiolani Community College	UOH311			
			110.10*	110.10*	

Program Appropriations

State of Hawaii		Program Appropriations				Appropriations		Total M Biennium O 1983-85 F
Item No.	Program	Program ID.	Expending Agency	Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F			
37.	Operating	UOH312	UOH	4,159,741A	4,205,414A	8,365,155A		8,365,155A
			UOH	88,562N	88,562N	177,124N		
				4.00*	4.00*			
	Investment: Capital		UOH	370,854W	395,002W	765,856W		
38.	Operating	UOH313	UOH	1.00*	1.00*	119,030A		119,030A
				59,117A	59,913A			
				1.00*	1.00*			
	Academic Support—Kapiolani Community Col		UOH	221,181B	226,147B	447,328B		
39.	Operating	UOH314	UOH	16.00*	16.00*	1,198,938A		1,198,938A
				596,485A	602,453A			
				20.00*	20.00*			
	Student Services—Kapiolani Community Col		UOH	502,615A	504,820A	1,007,435A		
40.	Operating	UOH315	UOH	91,020N	91,020N	182,040N		182,040N
			UOH	8,341W	8,761W	17,102W		
				29.00*	29.00*			
	Institutional Support—Kapiolani CC		UOH	1,140,516A	1,209,267A	2,349,783A		
	Operating		UOH	6,385B	6,922B	13,307B		13,307B
			UOH	78,011W	84,564W	162,575W		
			AGS	155,000C	725,000C	880,000C		
	Investment: Capital							

41.	Leeward Community College Instruction—Leeward Community College Operating	UOH321	UOH UOH UOH	148.00* 4,592,109A 54,561N 2.00* 171,251W	148.00* 4,609,948A 54,561N 2.00* 181,687W	9,202,057A 109,122N 352,938W
42.	Public Service—Leeward Community College Operating	UOH322	UOH UOH	5.00* 128,220A 1.00* 279,892B	5.00* 129,462A 1.00* 289,263B	257,682A 569,155B
43.	Academic Support—Leeward Community College Operating	UOH323	UOH	25.00* 764,702A	25.00* 791,143A	1,555,845A
44.	Student Services—Leeward Community College Operating	UOH324	UOH UOH UOH UOH	32.00* 813,121A 33,588B 125,000N 9,775W	32.00* 815,601A 35,484B 125,000N 10,400W	1,628,722A 69,072B 250,000N 20,175W
45.	Institutional Support—Leeward CC Operating Investment: Capital	UOH325	UOH AGS	45.50* 1,706,011A 155,000C	45.50* 1,724,935A C	3,430,946A 155,000C
46.	Windward Community College Instruction—Windward Community College Operating	UOH331	UOH UOH	42.50* 1,276,184A 4,246W	42.50* 1,261,243A 4,603W	2,537,427A 8,849W
47.	Public Service—Windward Community College	UOH332				

Program Appropriations

State of Hawaii							
Item No.	Program	Program ID.	Expending Agency	Appropriations		Total M Biennium O 1983-85 F	
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F		
	Operating		UOH UOH	2.00* 65,450A 94,067B	2.00* 74,351A 97,070B	139,801A 191,137B	
48.	Academic Support—Windward Community Coll	UOH333	UOH	12.00* 430,115A	12.00* 433,437A	863,552A	
49.	Student Services—Windward Community Coll	UOH334	UOH UOH UOH	9.00* 246,180A 48,117N 3,258W	9.00* 253,395A 48,117N 3,530W	499,575A 96,234N 6,788W	
50.	Institutional Support—Windward CC	UOH335	UOH UOH	15.00* 524,994A 1.00* 51,898W	15.00* 587,202A 1.00* 55,308W	1,112,196A 107,206W	
51.	Maui Community College Instruction—Maui Community College	UOH501	UOH UOH	64.00* 1,968,633A 26,090N 2.00*	64.00* 1,977,983A 26,090N 2.00*	3,946,616A 52,180N	
52.	Public Service—Maui Community College	UOH502	UOH	177,592W	189,661W	367,253W	

53.	Operating	UOH	2.50*	2.50*	128,529A	256,195A
		UOH	127,666A	85,000B		158,000B
			73,000B			
	Academic Support—Maui Community College	UOH503				
	Operating	UOH	14.00*	14.00*	381,627A	759,698A
			378,071A			
54.	Student Services—Maui Community College	UOH504				
	Operating	UOH	9.50*	9.50*	315,276A	629,423A
			314,147A	2.00*		
		UOH	137,489B	152,740B		290,229B
		UOH	118,000N	118,000N		236,000N
		UOH	4,247W	4,604W		8,851W
55.	Institutional Support—Maui Community Col	UOH505				
	Operating	UOH	19.00*	19.00*	922,708A	1,794,318A
	Investment: Capital	AGS	871,610A	C		379,000C
			379,000C			
56.	Kauai Community College					
	Instruction—Kauai Community College	UOH601				
	Operating	UOH	48.00*	48.00*	1,436,803A	2,867,160A
		UOH	1,430,357A	1,735N		3,470N
		UOH	1,735N	10,744W		20,654W
		UOH	9,910W			33,000C
	Investment: Capital	AGS	33,000C	C		
57.	Public Service—Kauai Community College	UOH602				
	Operating	UOH	.50*	.50*	17,613A	35,110A
		UOH	17,497A	21,445B		41,910B
			20,465B			
58.	Academic Support—Kauai Community College	UOH603				
	Operating	UOH	10.50*	10.50*	379,646A	756,389A
			376,743A			

Program Appropriations

State of Hawaii		Program Appropriations				Appropriations		Total M Biennium O 1983-85 F
Item No.	Program	Program ID.	Expending Agency	Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F			
59.	Student Services—Kauai Community College	UOH604		10.00*	10.00*			
	Operating		UOH	257,281A	258,620A			515,901A
			UOH	36,000N	36,000N			72,000N
			UOH	2,830W	3,068W			5,898W
60.	Institutional Support—Kauai CC	UOH605		25.50*	25.50*			
	Operating		UOH	1,247,268A	1,279,317A			2,526,585A
	Investment: Capital		UOH	21,238B	23,018B			44,256B
			AGS	231,000C	25,000C			256,000C
61.	West Oahu College							
	Instruction—West Oahu College	UOH701		9.00*	9.00*			
	Operating		UOH	309,376A	310,357A			619,733A
62.	Academic Support—West Oahu College	UOH704						
	Operating		UOH	3.50*	3.50*			
				146,297A	146,878A			293,175A
63.	Student Services—West Oahu College	UOH705						
	Operating		UOH	2.00*	2.00*			
				78,442A	80,742A			159,184A
64.	Institutional Support—West Oahu College	UOH706						
	Operating		UOH	5.00*	5.00*			
				306,844A	316,063A			622,907A

65.	Higher Education State-wide Support Academic Support—UOH, System-wide Support	UOH901	UOH	38.00*	38.00*	3,163,032A 1,144,292B	6,206,283A 2,224,154B
66.	Student Services—UOH, System-wide Support	UOH902	UOH	4.00*	4.00*	568,209A	1,103,419A
67.	Institutional Sppt—UOH, System-wide Sppt	UOH903	UOH	186.75*	186.75*	6,008,272A 6.00*	12,092,713A
	Investment: Capital		AGS	516,606B 2,000,000C	516,606B C		1,033,212B 2,000,000C
68.	Vocational Education, Statewide Coordinat	UOH904	UOH	7.00*	7.00*	210,166A 4.00*	420,793A
69.	Statewide Plan & Coord for Post-Secondar Operating	UOH905	UOH	337,131N	337,131N		716,537N
70.	Community College Systemwide Support	UOH906	UOH	1,303,648A	1,041,483A		2,345,131A
	Operating		UOH	25.00*	25.00*	1,548,973A 16.00*	2,781,059A
			UOH	909,266B 19.60*	930,186B 19.60*		1,839,452B
			UOH	897,789N 3.00*	918,744N 3.00*		1,816,533N
			UOH	217,432W	231,750W		449,182W

H. CULTURE AND RECREATION

Program Appropriations

State of Hawaii		Program Appropriations			
Item No.	Program	Program ID.	Expending Agency	Appropriations Fiscal M Year O 1983-84 F	Total M Biennium O 1983-85 F
CULTURAL ACTIVITIES					
1.	Historical and Archaeological Places	LNR801		26.00*	
	Operating		LNR	828,621A	1,658,799A
	Investment: Capital		LNR	1,835,000C	1,920,000C
2.	Aquaria	UOH881		11.00*	
	Operating		UOH	295,504A	597,308A
3.	Hawaii Public Broadcasting	CCA701		36.00*	
	Operating		CCA	1,328,137A	2,629,738A
	Investment: Capital		CCA	1,00*	
			AGS	1,493,941W	2,797,631W
				250,000C	1,045,000C
4.	Performing & Visual Arts Events	AGS881		10.00*	
	Operating		AGS	744,579A	1,536,965A
			AGS	421,270N	809,040N
			AGS	50,000R	100,000R
5.	Ethnic Group Presentations	AGS818			
	Operating		AGS	49,075A	101,586A
			AGS	7,500B	15,000B
RECREATIONAL ACTIVITIES					

Program Appropriations

State of Hawaii		Program Appropriations				
Item No.	Program	Program ID.	Expendig Agency	Appropriations Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
	Operating		SOC	1,366,087A	1,258,970A	2,625,057A
	Confinement Juvenile Correctional Facilities					
2.	Operating	SOC401	SOC	90.00* 2,637,687A	90.00* 2,751,847A	5,389,534A
3.	High Security Facility	SOC402	SOC	133.00* 3,172,982A	133.00* 3,200,275A	6,373,257A
4.	Kulani Correctional Facility	SOC403	SOC	53.83* 1,822,795A	53.83* 1,864,854A	3,687,649A
5.	In-Community Facilities	SOC404	SOC	15.00* 539,601A	15.00* 575,486A	1,115,087A
6.	Hawaii Community Correctional Center	SOC405	SOC	33.00* 869,132A	33.00* 886,069A	1,755,201A
7.	Maui Community Correctional Center	SOC406	SOC	38.00* 1,017,692A	38.00* 1,047,533A	2,065,225A
8.	Oahu Community Correctional Center	SOC407	SOC	498.80* 498.80*	498.80* 498.80*	498.80*

	Operating		SOC	14,440,701A	15,114,109A	29,554,810A
9.	Kauai Community Correctional Center	SOC408				
	Operating		SOC	27.00*	27.00*	
				786,543A	810,588A	1,597,131A
10.	Social Rehabilitation of Confined Adults	UOH859				
	Operating			6.00*	6.00*	
			UOH	202,902A	206,988A	409,890A
			UOH	34,027N	34,027N	68,054N
			UOH	2,830W	3,068W	5,898W
11.	Parole Supervision and Counseling Adult Parole Determinations	SOC411				
	Operating		SOC	2.00*	2.00*	
				80,040A	80,520A	160,560A
12.	Adult Parole Supervision and Counseling	SOC413				
	Operating		SOC	19.00*	19.00*	
				389,804A	391,804A	781,608A
13.	Criminal Injuries Compensation	SOC414				
	Operating		SOC	3.00*	3.00*	
				91,186A	90,894A	182,080A
14.	General Support - Criminal Action Criminal Data and Crime Statistics	ATG191				
	Operating		ATG	11.00*	11.00*	
				199,571A	191,101A	390,672A
15.	General Adm - Confinement	SOC493				
	Operating		SOC	27.00*	27.00*	
				550,212A	586,763A	1,136,975A
	Investment: Capital		SOC	193,594B	207,145B	400,739B
			AGS	26,921,000C	25,000,000C	51,921,000C

State of Hawaii		Program Appropriations			
Item No.	Program	Program ID.	Expend- ing Agency	Appropriations Fiscal M Year O 1983-84 F	Total M Biennium O 1983-85 F
16.	Statistical Analysis Center Operating	ATG231	ATG	13.00* 507,667A	13.00* 504,791A 1,012,458A
17.	SAFETY FROM PHYSICAL DISASTERS Prevention of Natural Disasters Operating	LNR810	LNR	3.00* 121,591A	3.00* 116,705A 238,296A
18.	Amelioration of Physical Disasters Operating Investment: Capital	DEF110	DEF DEF AGS AGS	134.00* 5,951,467A 4.00* 1,098,099N 1,406,000C 1,321,000N	136.00* 6,095,452A 4.00* 1,358,279N 1,521,000C 1,576,000N 12,046,919A 2,456,378N 2,927,000C 2,897,000N
J. INDIVIDUAL RIGHTS					
PROTECTION OF THE CONSUMER					
1.	Testing & Certification of Consumer Good Operating	AGR810	AGR AGR	26.25* 587,120A 26.25* 721,441N	26.25* 582,572A 26.25* 723,818N 1,169,692A 1,445,259N
2.	Regulation of Services Consumer Advocate for Comm, Util & Trans	CCA103		23.00*	23.00*

Operating	CCA	961,161A 4.00*	984,240A 4.00*	1,945,401A
	CCA	224,608X	230,965X	455,573X
3. Banking Services	CCA104			
Operating	CCA	25.00*	25.00*	1,422,367A
		709,385A	712,982A	
4. Insurance Services	CCA106			
Operating	CCA	32.00*	32.00*	1,513,258A
		743,683A	769,575A	
5. Professional, Vocational & Personal Svcs	CCA105			
Operating	CCA	37.00*	37.00*	2,443,388A
		1,202,953A	1,240,435A	
6. Transportation, Communications, & Utilit	BUF901			
Operating	BUF	19.00*	19.00*	1,595,333A
		786,960A	808,373A	
7. Enforcement of Fair Business Practices Business Registration	CCA111			
Operating	CCA	24.00*	24.00*	943,700A
	CCA	464,745A	478,955A	318,000B
		159,000B	159,000B	
8. Measurement Standards	AGR812			
Operating	AGR	20.00*	20.00*	1,004,532A
		505,225A	499,307A	
9. Offc of Consumer Prot - Adv & Terms of S	CCA110			
Operating	CCA	27.00*	27.00*	1,350,399A
		672,820A	677,579A	
10. General Support-Protection of the Consum	CCA191			
		47.00*	47.00*	

Program Appropriations

State of Hawaii						
Item No.	Program	Program ID.	Expending Agency	Appropriations		
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
	Operating		CCA CCA	1,352,752A 881,364B	1,414,391A 881,364B	2,767,143A 1,762,728B
LEGAL & JUDICIAL PROTECTION OF RIGHTS						
11.	Legal Assistance in Criminal Actions	BUF151				
	Operating		BUF	68.00* 2,285,241A	72.00* 2,409,168A	4,694,409A
12.	Conveyances and Recordings	LNR111				
	Operating		LNR	44.00* 874,994A	44.00* 880,328A	1,755,322A
13.	Commission on the Status of Women	SOC388				
	Operating		SOC	39,583A	A	39,583A
K. GOVERNMENT-WIDE SUPPORT						
EXEC DIRECTN, COORD, & POLICY DEVELOPMEN						
1.	Office of the Governor	GOV100				
	Operating		GOV	43.00* 1,830,077A	43.00* 1,859,167A	3,689,244A
	Investment: Capital		GOV	3,000,000C 2,800,000C	3,000,000C	6,000,000C 5,800,000C
2.	Office of the Lieutenant Governor	LTG100				
	Operating		LTG	24.00* 1,803,113A	24.00* 2,713,987A	4,517,100A

3.	Policy Development and Coordination BUF—Prgm Planng, Analysis & Budgeting	BUF101	Operating	70.00*	13,244,525A 215,031B 140,946N 1,617W	70.00* 19,090,478A 896,481B 577,565N 13,737W	32,335,003A 1,111,512B 718,511N 15,354W
4.	Statewide Plan and Coordination	PED103	Operating Investment: Capital	53.00*	2,396,198A 5,500,000C	53.00* 2,023,744A 5,670,000C	4,419,942A 11,170,000C
5.	Gov—Oth Policy Development & Coordinat	GOV102	Operating	12.00*	1,197,227A	12.00* 994,356A	2,191,583A
6.	FISCAL MANAGEMENT Revenue Collection Income Assessment P Audit	TAX102	Operating	123.00*	3,365,863A	123.00* 2,670,176A	6,036,039A
7.	Tax Collections Enforcement	TAX103	Operating	74.00*	1,426,695A	74.00* 1,431,153A	2,857,848A
8.	Tax Services & Processing	TAX105	Operating	89.00*	2,300,765A	89.00* 2,341,828A	4,642,593
9.	Supporting Services—Revenue Collection	TAX107	Operating	36.00*	1,918,082A	36.00* 1,990,228A	3,908,310A
10.	Fiscal Procedures and Control Acct System Development & Maintenance	AGS101					

Program Appropriations

State of Hawaii

Item No.	Program	Program ID.	Expending Agency	Appropriations		
				Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
	Operating		AGS	9.00* 255,537A	9.00* 256,301A	511,838A
11.	Expenditure Examination	AGS102				
	Operating		AGS	23.00* 727,251A	23.00* 711,801A	1,439,052A
12.	Recording and Reporting	AGS103				
	Operating		AGS	15.00* 446,729A	15.00* 454,743A	901,472A
13.	Internal Post Audit	AGS104				
	Operating		AGS	19.00* 800,513A	19.00* 923,184A	1,723,697A
14.	Cash and Debt Management	BUF110				
	Operating		BUF BUF BUF	16.00* 212,506,645A 157,189B 5,000U	16.00* 223,646,414A 44,738B 5,000U	446,153,059A 201,927B 10,000U
GENERAL SERVICES						
15.	Legal Services	ATG100				
	Operating		ATG ATG ATG	104.00* 5,129,827A 9.00* 485,448N 30.00* 849,564U	104.00* 4,392,690A 9.00* 487,716N 30.00* 849,564U	9,522,517A 973,164N 1,699,128U

State of Hawaii		Program Appropriations				Appropriations		Total M Biennium O 1983-85 F
Item No.	Program	Program ID.	Expendig Agency	Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F			
23.	Insurance Management Operating	AGS203	AGS AGS	8,157,899A 820,234U	9,366,205A 927,422U			17,524,104A 1,747,656U
24.	Land Survey Operating	AGS211	AGS	28.00* 683,278A	28.00* 699,403A			1,382,681A
25.	Facilities Construction and Maintenance Construction	AGS221		20.00* 538,190A 18,665,000C 4,726,000D	20.00* 540,672A 2,364,000C D			1,078,862A 21,029,000C 4,726,000D
26.	Custodial Services Operating	AGS231	AGS AGS	145.50* 8,429,369A 289,709U	145.50* 7,941,075A 309,989U			15,770,444A 599,698U
27.	Grounds Maintenance Operating	AGS232	AGS	39.50* 725,675A	39.50* 734,930A			1,460,605A
28.	Building Repairs and Alterations Operating	AGS233	AGS	24.00* 629,056A	24.00* 641,457A			1,270,513A
	Purchasing and Supplies							

PART III. PROGRAM APPROPRIATION PROVISIONS

ECONOMIC DEVELOPMENT

SECTION 4. Provided that of the sums appropriated for Tourism program (PED 113), the general fund used for a contract with the Hawaii Visitors Bureau for the purpose of tourism promotion shall not exceed \$2,810,729 for fiscal year 1983-84 and \$3,334,391 for fiscal year 1984-85.

SECTION 5. Provided that of the sums appropriated for the Tourism program (PED 113), \$75,000 in each year of the fiscal biennium 1983-85 shall be used for the Aloha Week Festival to be administered by the Hawaii Visitors Bureau pursuant to a purchase of service contract.

SECTION 6. Provided that of the sum appropriated for the General Administration for Agriculture program (AGR 192), \$75,000 for fiscal year 1985 shall be used to conduct a departmental audit which is a requirement by the USDA for federal assistance; provided further, that this appropriation shall be matched dollar for dollar by the federal government.

SECTION 7. Provided that toxicological laboratory services funded under HTH 901 and UOH 102 shall be provided to the Department of Agriculture on a priority basis.

SECTION 8. Provided that of the general fund appropriation for fiscal year 1983-84 to Distribution Systems Improvement for Agriculture (AGR 151), \$200,000 shall be used to promote fresh pineapples in the United States and Canada; provided further that these funds shall not be expended unless matched dollar for dollar by private contributions.

SECTION 9. Provided, that of the general fund appropriation to Commercial Fishery and Aquaculture (LNR 153) a sum not to exceed \$50,000 in each year of the fiscal biennium 1983-85 shall be used to fulfill cooperative agreements for prawn post larvae production; and provided further, that the Department of Land and Natural Resources shall confirm the supply of prawn post larvae at the lowest cost and phase out the State's post larvae production when feasible.

SECTION 10. Provided that for the Water Development and Irrigation Services program (LNR 141), the general fund appropriation shall be reduced to the extent that special fund revenues exceed the amounts authorized by this Act.

TRANSPORTATION

SECTION 11. Provided, that of the appropriation for Water Transportation Facilities and Services Support (TRN 395), \$200,000 in each year of the fiscal biennium 1983-85 shall be used for the payment of tort claims involving the Harbors Division, which are arbitrated, compromised, or settled for amounts not in excess of the deductible of the appropriate insurance policy of the Harbors Division, and for litigation purposes not provided for in the several insurance policies of the Harbors Division.

SECTION 12. Provided, that of the appropriation to the Transportation Facilities and Services program (TRN 995), not more than \$20,000 in each year of

the fiscal biennium 1983-85 shall be used for State matching funds for the operation of the Oahu Metropolitan Planning Organization (OMPO).

HEALTH

SECTION 13. Provided that of the general fund appropriation to Hawaii State Hospital (HTH 430) in fiscal year 1984-85, no moneys shall be used to contract for the delivery of adolescent inpatient services.

SECTION 14. Provided that of the general fund appropriation to Comprehensive Health Planning (HTH 906) in fiscal year 1983-84, \$75,000 shall be for the State Health Planning and Development Agency to develop a hospital prospective payment plan applicable to all third party payors and based upon Hawaii health care utilization experience; provided further that the State Health Planning and Development Agency shall submit such plan to the Legislature not less than twenty days prior to the convening of the 1984 Regular Session.

SECTION 15. Provided, that the Department of Health, shall submit a report to the 1984 Regular Session of the Legislature. As a minimum the report shall include:

1. Modifications made to the Hawaii State Plan for Alcohol, Drug Abuse and Mental Health as determined by the needs assessment study outlined in Section III, Appendix A of the State Plan. The evaluation shall also include an explanation of the key informant surveys and utilization rates used in modifying the State Plan.
2. A comparison explaining quality of service differences or similarities between public and private sector providers.
3. A comparison of public and private sector providers with regard to compliance to the standards of the Mental Health Division. The report shall also explain any action taken by the division of any program which did not meet the division standards.
4. Of the services determined to be needed by the State, a comparison of type of activities conducted and the level of service provided in each activity.
5. A comparison cost effectiveness between public and private programs. The comparative analysis shall cover the first six months of the implementation of the Hawaii State Plan.

SECTION 16. Provided, that the Department of Health shall submit a report on the results of monitoring and evaluating the purchases of service agreements pursuant to Section 42-9, Hawaii Revised Statutes. The report shall include a description of the division's monitoring and evaluation system, individual assessments on the efficiency and effectiveness of each provider's program, and each provider's compliance to Chapter 42, Hawaii Revised Statutes, its contractual agreement, and the public purpose and legislative intent of the agreement. The report shall be submitted to the Legislature not less than twenty days prior to the 1984 Regular Session.

SECTION 17. Provided, that as soon as practicable, HTH 511 funds shall be used to demonstrate the cost effectiveness of utilizing the community based

programs known as the small Intermediate Care Facility for the Mentally Retarded and the Home and Community Based Services program in the biennium period July 1, 1983, to June 30, 1985. The program shall serve Waimano residents who are ready and capable of being served by the program and whose cost of care will be less in the community than at Waimano. The Department shall submit a progress report to the Legislature at least twenty days prior to the convening of the 1984 and 1985 Legislature.

SOCIAL SERVICES

SECTION 18. Provided that in establishing the upper limits on payments for individual practitioners for Health Care Payments (SOC 230) for fiscal biennium 1983-85, the Department of Social Services and Housing shall use 79.5% of the 1979 profiles of usual and customary fees; provided further that in fiscal biennium 1983-85, the customary limit shall be reduced from the 75th percentile level in an amount sufficient to effect an overall 10% reduction in payments and rates in effect on June 30, 1983 to individual practitioners and to providers of all other noninstitutional items and services including outpatient hospital services.

SECTION 19. Provided that of the funds appropriated for Health Care Payments (SOC 230) for fiscal year 1983-1984, \$386,855 in general funds and \$369,447 in matching federal funds shall be used for the development and operation of a demonstration nursing home without walls project.

SECTION 20. Provided that notwithstanding any other law to the contrary, the Department of Social Services and Housing shall determine the kinds of medical services and the extent of such services for which expenditures for Health Care Payments (SOC 230) shall be made; provided further, that the services shall include those services mandated by federal law and other services determined by the department to be essential.

SECTION 21. Provided that of the general funds appropriated for Health Care Payments (SOC 230) for FY 1983-84, \$386,855 in general funds and \$369,447 in matching federal funds shall be used for the development and operation of a demonstration nursing home without walls project; and provided further, that the demonstration project shall not be subject to licensing or certification requirements of the Department of Health or of the State Health Planning and Development Agency; and provided further, that personnel employed for the demonstration project shall not be subject to the provisions of Chapters 76 and 77, Hawaii Revised Statutes; and provided further that the Department of Social Services and Housing shall adopt rules in accordance with Chapter 91, Hawaii Revised Statutes, for purposes of this Act, and that the Director of Social Services shall provide a comprehensive report on the status of the demonstration project to the Legislature at least twenty days prior to the convening of each Regular Session during the period of the demonstration project.

SECTION 22. Provided that of the general fund appropriation to Plan, Program Development and Coordination of Services for Elderly (GOV 602), \$16,481 in fiscal year 1983-84 shall be used for the Hawaii County Office on Aging to purchase personal care services; provided further, that the Hawaii County Office on Aging shall evaluate this program and make the results of the study available to

the Legislature at least twenty days prior to the convening of the 1984 Regular Session.

SECTION 23. Provided that the Department of Education shall submit, with its supplemental budget request to the 1984 Legislature, a supplemental display which shall reveal, for each school in each EDN program, the general funds being requested; provided further that the Department of Education shall also submit, as a supplement to the executive variance report, a report of expenditures for 1982-83 and a report of expected expenditures for 1983-84 in a school-by-school format for all lower education programs under its control; provided further that the supplemental display shall be submitted along with the supplemental budget request; and provided that the expenditure reports shall be submitted no later than two weeks after the convening of the 1984 Regular Session.

SECTION 24. Provided, that the Board of Education shall develop and implement a system for the regular and periodic review by the Board of the Department's ongoing programs and operations; and provided further, that such system shall include but not be limited to the following elements: (1) annual reviews scheduled to cover a manageable portion of the department's programs and operations such that all programs and operations shall eventually be reviewed by a specified date; (2) programs and operations selected for simultaneous review as much as possible shall be related in function or program area; (3) establishment of meaningful criteria for the review; (4) establishment of procedures and safeguards to ensure the orderly reorganization, expansion, reduction, or termination of programs and operations when deemed appropriate by the Board as a result of the review; and (5) opportunity for public input in the review process; and provided further, that the Board shall submit a report of its findings and recommendations to the Legislature at least twenty days prior to the convening of the 1984 Regular Session.

SECTION 25. Provided, that of the total appropriation for fiscal year 1983-84 to the Department of Education, \$451,249 shall be expended to finance approved Grant-in-Aid programs; provided further, that the department shall submit an evaluation of each program at least twenty days prior to the convening of the 1984 Regular Session.

SECTION 26. Provided that of the sums appropriated and positions approved for the Regular Instruction program (EDN 105), it is the intent of the Legislature that the Governor is authorized to expend general fund moneys to provide for and maintain the level of services approved by the Legislature and authorized by this Act; provided further that in the event the sum received by the Department of Education in EDN 105 under Public Law 81-874 (Impact Aid), or any other public law which amends or supersedes Public Law 81-874, for each year of the fiscal biennium 1983-85 is less than the amount authorized in this Act, the Legislature may under procedures established in Article III, Section 10, of the Hawaii State Constitution, meet in special session to deal with the problem. If the sum received is greater than the amount authorized in this Act for each year of the fiscal biennium 1983-85, then the general fund appropriation to the Department of

Education shall be reduced to the extent that the actual sum received exceeds the amount authorized for each respective fiscal year.

SECTION 27. Provided that the amounts shown for Regular Instruction (EDN 105) are intended for student enrollment projections of 161,042 for fiscal year 1983-84 and 161,195 for fiscal year 1984-85.

SECTION 28. Provided that of the general fund appropriation to the Other Regular Instruction Programs (EDN 106), \$16,964,552 and 527 positions in fiscal year 1983-84 and \$16,968,377 and 527 positions in fiscal year 1984-85 shall be allotted for the School Priority Fund, which shall be used to augment regular instruction and other purposes which, at the schools' discretion will benefit students and improve the instructional program beyond the level normally permissible through only the regular allotment; provided further that funds and positions of the School Priority Fund are divided into three parts as follows: For fiscal year 1983-84, the Instructional Resource Augmentation (IRA) part which includes 527 positions and \$12,938,502, the Elementary Fund which includes \$2,173,550, and the Secondary Fund which includes \$1,852,500; and for fiscal year 1984-85, the Instructional Resource Augmentation (IRA) part which includes 527 positions and \$12,938,502, the Elementary Fund which includes \$2,175,625, and the Secondary Fund which includes \$1,854,250; provided further that as used in this section, "enrollment" shall mean student enrollment in the regular schools with each regular student and each special student being counted as one; provided further that the elementary and secondary funds shall be used for purchase of supplies, textbooks, equipment and services, and the IRA positions shall be used to meet the unique needs of each school; provided further that the superintendent shall allot the elementary and secondary funds to the districts based on elementary and secondary enrollments, respectively; provided further that the district superintendents may withhold up to seven per cent of their district allotments of elementary and secondary funds for a reserve to be used for such purposes as unforeseen enrollment increases, compliance with comparability requirements, emergency school need for funds, and special school projects that directly benefit the student; provided further that the district superintendent, after deducting the district reserve, shall allot the balance of the elementary and secondary funds to the elementary and secondary schools based on elementary and secondary enrollments, respectively; provided further that in the allocation of 527 IRA positions to the district superintendents, the superintendent shall calculate each district's entitlement based on elementary enrollment and redeploy positions beginning September 1983, so that each district shall be provided with their full entitlement of positions by September 1985; provided further that the district superintendents shall strive for equity in the allocation of the 482 teacher and 45 educational assistant IRA positions to the elementary schools using enrollment as the basic guide and without having to unduly fractionate individual positions; provided further that the district superintendents may transfer funds in an equitable manner among schools in the event of significant shifts in school enrollment; provided further that the principals shall consult with teachers and, to the extent practicable, with parents and students, to solicit their advice on the use of funds and positions; provided further that while the schools shall be given latitude and discretion to determine their needs and priorities, and while the program

shall be implemented without imposing undue amounts of paperwork and red tape on the schools, the superintendent shall still assure sound planning, control, and accountability by developing and implementing proper planning procedures and follow-up accountability reports; and provided further, that the principals shall submit their plans for use of the funds and positions to their district superintendents who shall review the plans for conformance with departmental policies and regulations.

SECTION 29. Provided, that of the appropriation for fiscal year 1983-84 and fiscal year 1984-85, to Other Regular Instruction (EDN 106), \$1,079,875 and \$1,088,682 respectively shall be expended by the Hawaiian Studies Program; provided further, that the department shall neither transfer nor authorize the transfer of funds from the Hawaiian Studies Program to other Education programs; provided further that the department shall incorporate the restructured program design into a report which shall include an actual evaluation of the program in terms of output rather than input; and provided further that the report shall be submitted not less than twenty days prior to the convening of the 1984 Regular Session of the Legislature.

SECTION 30. Provided, that of the appropriation for fiscal year 1983-84 to Other Regular Instruction (EDN 106), \$2,193,113 shall be expended by the Early Provision for School Success Program to include, but not be limited to, the aiding of students in the development of basic skills and life skills; provided further, that the department shall submit an evaluation of this program to the Legislature at least twenty days prior to the convening of the 1984 Regular Session.

SECTION 31. Provided that the Department of Education shall evaluate all of its programs for alienated students and its "alternative" education programs under Compensatory Education (EDN 108) including, but not limited to, the Comprehensive School Alienation Program, the Storefront School, the Nanakuli Learning Center, the Maui Alternative Program, the Kauai Alternative Program, the Kona Hoopono-pono, Hilo Hukiliki, the Nanakuli Interest Curriculum, the Kailua Learning Center, the Hilo High Alternative Program, the Hawaii Alternative Program, the Honolulu Alternative Program, and the Leeward Alternative Program; provided further that the Department of Education shall use this evaluation to integrate those programs for alienated students it considers successful and efficient into a single, comprehensive alienation program; and provided further that before any funds are appropriated for programs for alienated students under EDN 108 in fiscal year 1984-85, the Department of Education shall submit to the Legislature its implementaton plan to integrate the various programs for alienated students funded through the department, at least sixty days prior to the convening of the 1984 Regular Session.

SECTION 32. Provided that the Department of Education shall evaluate the present staffing of the Office of Instructional Services (OIS) under Instructional Development (EDN 205) and at the seven district offices under District Administration (EDN 304) to determine which state and district teacher positions are non-essential; provided further that the department shall recommend a plan to streamline OIS and the district offices and to redeploy non-essential state and district teachers back into the classrooms; and provided further that the department shall submit a

report on the redeployment of these teachers not less than twenty days prior to the convening of the 1984 Regular Session.

SECTION 33. Provided, that of the general fund appropriation to State Administration (EDN 303) the Department of Education shall neither expend funds in excess of the appropriated amounts, nor transfer or authorize the transfer of funds from other education programs to pay for expenditures in excess of those amounts; and provided further, that such practice shall be deemed to be a direct contravention of legislative intent; and provided further, that the reductions in the amounts appropriated for personnel, relative to existing requirements shall be limited to certificated personnel.

SECTION 34. Provided, that the Department of Education, State Administration (EDN 303) shall explore alternative housing quarters from within existing public education facilities. The office of instructional services shall report its findings twenty days prior to the 1984 Legislature. The report shall include a comparative analysis of the cost of relocation and the fiscal year 1983-84 cost of rental.

SECTION 35. Provided, that of the general fund appropriation to State Administration (EDN 303), \$157,850 in each year of the fiscal biennium 1983-85 shall be to finance the operations of the Board of Education; provided further, that the Board shall neither expend funds in excess of this amount nor transfer or authorize the transfer of funds from other education programs to pay for expenditures in excess of this amount; and provided further, that any expenditure in excess of the above mentioned amounts shall be deemed to be a direct contravention of legislative intent.

SECTION 36. Provided that the resource teachers in reading, art, music, and physical education assigned to each district office under District Administration (EDN 304) may be utilized at the discretion of the district superintendent, where feasible, to lower the pupil-teacher ratio in kindergarten and grades one through three; and provided further that all the remaining resource and other district-level teachers may be utilized at the discretion of the district superintendent for the Gifted and Talented Program.

SECTION 37. Provided that of the general fund appropriation for Physical Plant Operations and Maintenance - AGS (AGS 807), the sum of \$1,000,000 in each year of the fiscal biennium 1983-85 shall be used to fund the repair and maintenance of school facilities; provided further that this appropriation shall not reduce or count against the amount which is appropriated for the repair and maintenance of schools under BUF - Program Planning, Analysis, and Budgeting (BUF 101); and provided further that the priorities for the repair and maintenance of schools shall be made by the Department of Education.

HIGHER EDUCATION

SECTION 38. Provided that the University of Hawaii at Manoa shall submit as part of its supplemental budget request to the 1984 Legislature, budgetary displays and supporting narratives which reveal the amount of general funds being requested for each of its PPB Level V programs, with the exception of the College

of Arts and Sciences program, which shall be displayed by major divisions; provided further that the University of Hawaii at Manoa shall also submit, as a supplement to the executive variance report, a report of expenditures for fiscal year 1982-83 and a report of anticipated expenditures for fiscal year 1983-84 by Level V programs, with the exception of the College of Arts and Sciences program, which shall be reported by major divisions.

SECTION 39. Provided, that the general fund appropriation for the Systemwide Support - Institutional Support (UOH 903) includes \$15,000 for each year of the fiscal biennium 1983-85 which may be expended at the discretion of the President of the University of Hawaii.

SECTION 40. Provided, that the general fund appropriations for the PPB level IV Institutional support programs include the following amounts for electricity costs:

	<u>FY 1983-84</u>	<u>FY 1984-85</u>
UOH-106	\$7,760,929A 72,872,575KwH \$.1065	\$7,412,578A 69,601,675KwH \$.1065
UOH-216	\$741,427A 5,524,792KwH \$.1342	\$820,197A 6,111,749KwH \$.1342
UOH-305	\$519,420A 4,386,994KwH \$.1184	\$502,143A 4,241,074KwH \$.1184
UOH-315	\$204,532A 1,631,034KwH \$.1254	\$246,326A 1,964,324KwH \$.1254
UOH-325	\$469,858A 3,945,073KwH \$.1191	\$465,159A 3,905,622KwH \$.1191
UOH-335	\$61,103A 531,790KwH \$.1149	\$60,492A 526,472KwH \$.1149
UOH-505	\$204,092A 1,295,821KwH \$.1575	\$202,251A 1,284,132KwH \$.1575
UOH-605	\$352,801A 1,812,953KwH	\$326,102A 1,675,759KwH

	\$.1946	\$.1946
UOH-706	\$25,151A	\$25,150A
	210,994KwH	210,994KwH
	\$.1192	\$.1192

As used in this section "KwH" means kilowatt hours. Provided further, that the electricity rates and kilowatt usage as identified herein shall be used as a reference base by the University and the Legislature in determining any deficits in funding for electricity; provided further, that the University shall study ways of lowering its electricity usage and shall submit to the Legislature a report describing the University's actual usage as it compares to the original projection and an explanation of variances and suggested recommendations for electricity conservation; provided further, that such report shall be submitted to the Legislature twenty days prior to the convening of the 1984 and 1985 Regular Session.

SECTION 41. Provided, that the University, with the approval of the Board of Regents, is authorized to transfer instructional positions including graduate assistants, lecturers and funds for related salary costs within and between the PPB level IV instruction appropriations for the various campuses for the purpose of correcting instructional deficiencies caused by shifting enrollment patterns, student demand or accreditation standards; provided, that the total authorized position count and funds as appropriated in this Act for the instructional programs shall not be exceeded. Provided further, that the University shall present to each regular session of the Legislature, a report describing the justification for any transfers (including the means of financing and descriptions of positions involved in the transfers), the impact of such transfers on the affected programs, and a summary status of any deferred instructional deficiencies caused by shortages in instructional personnel including recommended alternatives.

SECTION 42. Provided, that of the general fund appropriation to Academic Support - UOH, Systemwide Support (UOH 901), not more than \$200,000 in each fiscal year of the 1983-85 biennium shall be expended for the President's Educational Improvement fund; provided further, that a minimum of \$100,000 in each fiscal year shall be expended from this fund for projects at the community colleges.

SECTION 43. Provided, that of the general fund appropriation to Academic Support - UOH, Systemwide Support (UOH 901), \$71,503 in fiscal year 1983-84 and \$76,508 in fiscal year 1984-85 shall be used for critical short-term nursing training, particularly on the neighbor islands; provided further, that the University shall present twenty days prior to the convening of the 1984 Regular Session of the Legislature, a report describing the training programs continued or implemented, data on students enrolled, and a progress report on the nursing training programs to address the critical need for nurses.

SECTION 44. Provided, that the general fund appropriations for the PPB level IV public service programs include the following amounts for journeyworker courses in skills upgrading, retraining for other employment, and meeting occupational safety and health requirements:

	<u>FY 1983-84</u>	<u>FY 1984-85</u>
UOH 213	\$ 14,000A	\$ 14,000A
UOH 302	56,330A	56,330A
UOH 502	13,700A	13,700A
UOH 602	1,200A	1,200A

CULTURE AND RECREATION

SECTION 45. Provided, that of the general fund appropriation to the Performing and Visual Arts Events (AGS 881), \$91,478 in each year of 1983-85 biennium shall be transferred from the project grant fund to the grant-in-aid fund.

SECTION 46. Provided, that of the general fund appropriation to Spectator Events and Shows (AGS 889), a sum not to exceed \$5,000 for each year of the fiscal biennium 1983-85 shall be authorized by the Stadium Authority to be expended at the discretion of the Stadium Manager for promotion and other Stadium purposes.

SECTION 47. Provided, that of the general fund appropriation to the Spectator Events and Shows Program (AGS 889), the sum of \$150,000 shall be expended in fiscal year 1983-84 to develop a comprehensive physical facilities and financial management plan for the enhancement of the Aloha Stadium Complex, including a feasibility study of a permanent seating configuration to maximize the present seating capacity; provided further, that the study shall include a review of revenue-generating alternatives for attaining complete financial self-sufficiency for on-going operations, maintenance and construction programs in order to diminish general fund appropriations; and provided further, that the results and recommendations of the study shall be submitted to the Legislature at least twenty days prior to the 1984 Regular Session.

SECTION 48. Provided, that for the Spectator Events and Shows Program (AGS 889), the general fund appropriation for each year of the fiscal biennium 1983-85 shall be reduced to the extent that special fund revenues exceed the amounts authorized in this Act.

PUBLIC SAFETY

SECTION 49. Provided, that of the general fund appropriation for the Amelioration of Physical Disasters program (DEF 110), the sum of \$2,250,000 for each year of the fiscal biennium 1983-85 shall be used exclusively for the relief from major disasters as intended under Section 127-11, Hawaii Revised Statutes; provided, further, that the amount expended for each disaster shall not exceed \$750,000.

SECTION 50. Provided that of the general fund appropriation for fiscal year 1983-84 to the Intake Service Centers (SOC 394), \$20,000 shall be used to conduct an independent comprehensive evaluation of the effectiveness and viability of the Community Restitution Services Program and Pre-trial Misdemeanant Program; provided further that the Intake Service Centers shall submit a report on the findings

and recommendations of such an evaluation to the Legislature twenty days prior to the convening of the 1984 Regular Session.

SECTION 51. Provided, that if expenses exceed the general fund appropriations made to the Hawaii Community Correctional Center program (SOC 405), the Maui Community Correctional Center program (SOC 406), the Oahu Community Correctional Center program (SOC 407), or the Kauai Community Correctional Center program (SOC 408) for each year of the fiscal biennium 1983-85 because of increased inmate population, the Governor is authorized to utilize moneys from the Governor's Contingency Fund, or savings as determined to be available from any other state program, for the purpose of meeting the deficits incurred by the Hawaii, Maui, Oahu, or Kauai Community Correctional Center programs; provided further, that any transfer of funds for this purpose shall be reported to the Legislature at least twenty days prior to the convening of the 1984 and 1985 Regular Session.

SECTION 52. Provided that the University of Hawaii and Department of Social Services and Housing shall determine the feasibility of transferring the administration and function of the Social Rehabilitation of Confined Adults (UOH 859) program to the Department of Social Services and Housing and that the instructional services provided by this program be purchased on a fee for services basis in the future; provided further that the University of Hawaii and Department of Social Services and Housing shall submit a joint report on the feasibility of such a transfer twenty days prior to the convening of the 1984 Regular Session of the Legislature.

INDIVIDUAL RIGHTS

SECTION 53. Provided that in expending the general fund appropriation to Regulation of Services, Communication, Utilities and Transportation (CCA 103), the director of Commerce and Consumer Affairs may employ persons exempt from Chapters 76 and 77, Hawaii Revised Statutes, to provide the public utilities division with expertise in regulatory matters; provided further that employees so hired shall serve under annual renewable contracts not to exceed \$40,000.

GOVERNMENT-WIDE SUPPORT

SECTION 54. Provided that the appropriation for the Office of the Governor (GOV 100) shall be expended at the discretion of the Governor.

SECTION 55. Provided, that of the general fund appropriation to the Office of the Governor (GOV 100), \$250,000 in fiscal year 1983-84 and \$200,000 in fiscal year 1984-85 shall be for the Governor's Contingency Fund, which may be transferred to other appropriations allotted, with the approval of the Governor, for unexpected or unforeseen needs.

SECTION 56. Provided, that notwithstanding any position ceiling the Governor may transfer positions and funds between existing programs of the state government for the purpose of establishing an integrated statewide data processing system.

SECTION 57. Provided that of the general fund appropriation for the Office of the Lieutenant Governor (LTG 100), \$642,080 in fiscal year 1983-84 and

\$347,577 in fiscal year 1984-85 shall be expended at the discretion of the Lieutenant Governor.

SECTION 58. Provided, that any reimbursements received by the Office of the Lieutenant Governor (LTG 100) from the counties for county associated election costs in the fiscal biennium 1983-85 shall be deposited into the general fund.

SECTION 59. Provided, that the general fund appropriation to the Recording and Reporting program (AGS 103) includes \$45,000 in fiscal year 1984 and \$52,500 in fiscal year 1985 to be expended only for escheated outlawed warrants pursuant to the provisions of Section 40-68, Hawaii Revised Statutes.

SECTION 60. Provided that of the general fund appropriation to the Office of the Lieutenant Governor (LTG 100), \$300,000 for fiscal year 1983-84, shall be used for data gathering and analysis, surveys of population distribution, research and other activities related to reapportionment and for the operations of the Reapportionment Commission; provided further that all expenditures of such funds shall not be made without the prior approval of the Chairman of the Commission.

SECTION 61. Provided, that in the event expenses specified in Section 621-9, Hawaii Revised Statutes (Witness Fees), and Section 802-5, Hawaii Revised Statutes (Court Appointed Private Counsel for Indigents), exceed the general fund appropriations made to Program Planning, Analysis and Budgeting Program (BUF 101) in each year of the fiscal biennium 1983-85 for the purposes stated therein, the Director of Finance with the approval of the Governor is authorized to utilize moneys from the Governor's Contingency Fund, or savings as determined to be available from any other state program for the purpose of meeting deficits incurred by the Department of Budget and Finance.

SECTION 62. Provided that of the general fund appropriation to Program Planning, Analysis and Budgeting Program (BUF 101) includes \$5,000,000 in fiscal year 1983-84 and \$3,800,000 in fiscal year 1984-85 for statewide repairs and maintenance projects.

SECTION 63. Provided that the Hawaii Institute for Management and Analysis in Government (HIMAG) under Program Planning, Analysis and Budgeting (BUF 101), shall submit a comprehensive report to the Legislature; and provided further, that such report shall include: (1) A description of the institute's current activities as it relates to the purposes and intent specified in Act 86, 1974 Session Laws; (2) An explanation of how the institute's current activities differ from services provided by other state departments; (3) A statement delineating the institute's different functions and activities as a research organization and as a training facility; (4) An outline of the institute's activities and major accomplishments during the past five years. Provided further, that the report shall be submitted to the Legislature at least twenty days prior to the convening of the 1984 Regular Session.

SECTION 64. Provided, that of the general fund appropriation for Other Policy Development and Coordination (GOV 102) in fiscal year 1983-84, \$20,000 shall be used to conduct a workshop and to develop a manual on the use of

pesticides, \$75,000 shall be used for an investigation of the alternatives for live-stock feed, \$10,000 shall be used for an international conference on radiation disinfestation of food and agriculture products, \$30,000 shall be for the Molokai Farm School, and \$20,000 shall be used to conduct a study of agricultural commodities.

SECTION 65. Provided that the sum appropriated for GOV 102, Other Policy Development and Coordination, \$75,000 in fiscal year 1983-84 shall be expended for the study of sugar cane and other crops for use as animal feed and shall be matched dollar for dollar by private industry; provided further that the funds shall be expended by the Governor's agriculture coordinating committee; provided further that it shall contract with the Hawaiian Sugar Planters Association and the College of Tropical Agriculture and Human Resources to do the feeding trials.

SECTION 66. Provided, that the general fund appropriation to the Supporting Services, Revenue Collection program (TAX 107) includes \$40,000 for each year of the fiscal biennium 1983-85 for the requirements of litigated tax claims pursuant to Section 40-35, Hawaii Revised Statutes.

SECTION 67. Provided, that of the general fund appropriation to the Cash and Debt Management program (BUF 110), \$75,000 in each year of the fiscal biennium 1983-85 shall be used to meet requirements of the Uniform Disposition of Unclaimed Property Program, pursuant to Section 523-20 Hawaii Revised Statutes, or the appropriate provision of S.B. No. 115 if enacted during the Regular Session of 1983.

SECTION 68. Provided, that to the extent that the sums appropriated for the payment of principal and interest on general obligation bonds are insufficient to meet and pay all such obligations at maturity in accordance with the terms of such bonds, there is hereby appropriated out of the general fund of the State all amounts necessary for the payment of the principal and interest of the bonds as they mature, and this appropriation shall be a paramount appropriation upon the general fund of the State.

SECTION 69. Provided, that any funds appropriated for lease rent to an agency relocated to the Kapuaiwa, Kekuanaoa, New Honolulu District Court, Old Honolulu District Court, Old Federal Courthouse, and Old Wailuku Court buildings shall be restricted from expenditure by the Governor in accordance with its date of occupancy.

SECTION 70. Provided, that of the general fund appropriation to Legal Services (ATG 100), 3.5 attorney general positions shall be assigned exclusively to the Department of Education for the purpose of providing legal services to the DOE.

SECTION 71. Provided that of the general fund appropriation for fiscal year 1983-84 to Electronic Data Processing Services (BUF 131), \$437,335 shall be for services provided to the Legislative Reference Bureau by the Electronic Data Processing Division; provided further that the Electronic Data Processing Division shall provide all of the electronic data processing services required by the Legislative Reference Bureau.

PART IV. GRANTS-IN-AID

SECTION 72. The following sums, or so much thereof as may be necessary, are appropriated out of the general revenues of the State of Hawaii for the fiscal year 1983-84 to the expending agencies designated:

<u>Organization</u>	<u>Program I.D.</u>	<u>Amount</u>
<u>Employment</u>		
Hawaii Centers For Independent Living	SOC 802	112,000
Hawaii Services on Deafness	SOC 802	25,442
Maui Rehabilitation Center Vocational— Training and Employment	SOC 802	72,000
Molokai Rehabilitation Facility— Work Activity Program	SOC 802	35,000
North Shore Career Training Program	LBR 902	18,000
<u>Health</u>		
Hemophilia Foundation	HTH 151	120,500
Hale Ho'Ola Hou: Wic. Prog.	HTH 160	13,888
KCMC — Poison Center	HTH 170	100,000
Hale Ho'Ola Hou: Family Planning	HTH 185	30,000
Hawaii Planned Parenthood	HTH 185	275,000
KCMC: Family Planning	HTH 185	42,000
Molokai Gen. Hosp.: Family Planning	HTH 185	14,358
Child & Family Svcs: Hale Lokahi	HTH 801	57,300
KCMC: Family Stress Ctr.	HTH 801	126,000
KCMC: Teen Intervention	HTH 801	31,950
Parent & Child Ctr. of Kalihi: Hana Like	HTH 801	74,000
Catholic Social Services: PEER	HTH 401	38,700
Central Oahu Youth Services Association	HTH 401	45,000
Child & Family Service: Hale O'Ulu	HTH 401	54,000
Child & Family Service: Kalihi—Palama School Project	HTH 401	25,000
Easter Seals Society: Act 221	HTH 401	45,000
Hawaii Island YWCA: Sexual Assault Support Services	HTH 401	28,419
Hilo Transitional Services	HTH 401	40,733
The House: The House, Inc.	HTH 401	31,000

ACT 301

The House: Network	HTH 401	50,065
KCMC: Sex Abuse Treatment Center	HTH 401	200,000
Maui Kokua Services: Short Term residential shelter	HTH 401	52,860
Po'ailani: Cooperative living	HTH 401	32,690
Po'ailani: Transitional living	HTH 401	22,992
Variety Club School	HTH 401	97,000
YWCA: Kauai Women's Rape Crisis	HTH 401	15,000
YMCA of Honolulu: Alternatives for Youth	HTH 401	68,000
Community based Services for MH (lump sum)	HTH 401	1,608,963
Easter Seals Society of Hawaii: Infant Development	HTH 500	160,000
Hilo Ass'n. to Help Retarded Citizens (Residential deaf/blind)	HTH 500	37,000
Society for Crippled Children/Maui	HTH 500	58,000
United Cerebral Palsy: Case Mgt.	HTH 500	16,599
United Cerebral Palsy: Infant Development	HTH 500	24,182
Waianae Coast Day Care Center: Infant Development	HTH 500	70,000
Ass'n. for Retarded Citizens of Kauai — Respite Care	HTH 501	20,508
Autistic Voc. Ed. Ctr. — prevoc.	HTH 501	60,000
Brantley Ctr. — voc., rehab., trng.	HTH 501	61,000
Easter Seals — respite care	HTH 501	43,000
Goodwill Voc. Trng. Ctrs.	HTH 501	65,000
Hawaii Ass'n. for Retarded Citizens: Pre—vocational	HTH 501	261,769
Hilo Ass'n. to Help Retarded Citizens: Respite Care	HTH 501	11,500
Hilo Ass'n. to Help Retarded Citizens: Pre—vocational	HTH 501	89,500
Kona Ass'n. for Retarded Citizens: Pre—vocational	HTH 501	16,354
Kona Ass'n. for Retarded Citizens: Work Activity	HTH 501	37,000
Lanakila Rehab: Work Activity	HTH 501	172,685

Maui Ass'n. for Retarded Citizens: Respite Services	HTH 501	12,500
Maui Rehab. Ctr.: Pre—vocational	HTH 501	12,000
Opportunities for Retarded, Inc.: Pre—vocational	HTH 501	100,000
Rehab. Unltd. Kauai: Work Activity	HTH 501	46,000
Research Ctr. of HI: Pre—vocational	HTH 501	45,000
SECO	HTH 501	67,500
Kokua Kalihi Valley: Primary Care	HTH 907	52,585
Waikiki Health Ctr: Primary Care	HTH 907	50,000
St. Francis Hospital: N. Koolau Comm. Health Ed.	HTH 908	54,000

Social Services

Boy's Club of Honolulu	SOC 111	37,500
Catholic Social Services — Child Sexual Abuse Treatment Program	SOC 111	22,000
Catholic Social Services — Operation Aloha	SOC 111	68,774
Catholic Social Services — Paraprofessional	SOC 111	21,000
Child and Family Services — Shelter for Abused Spouses and Children	SOC 111	57,000
County of Maui — Maunaolu Youth Residential	SOC 111	86,000
Family Crisis Center — Hilo	SOC 111	53,000
Hale Opio — Kauai	SOC 111	53,900
Kauai County — YWCA — The Shelter	SOC 111	67,000
Kona Crisis Center	SOC 111	8,000
Salvation Army — Hilo Interim Home	SOC 111	78,100
Sexual Assault Crisis Center (under Women Helping Women)	SOC 111	13,000
Susannah Wesley Community Center — Youth Intake Center	SOC 111	53,000
Women Helping Women — Hale Loko Maikai shelter victims of family violence	SOC 111	42,000
Hawaii County Economic Opportunity Council — Maintenance Support Effort	GOV 860	15,000
Hawaii County Economic Opportunity Council — Transportation	GOV 860	107,300

ACT 301

Legal Aid Society	GOV 860	800,000
Maui Economic Opportunity — Community Action Support	GOV 860	60,000
Maui Economic Opportunity — Trans. Services	GOV 860	62,000
Catholic Social Services — Small Group Homes	GOV 602	75,000
County of Kauai Office of Elderly Affairs — Transportation Services	GOV 602	85,000
Kapahulu Senior Center	GOV 602	65,000
Kauai Office of Elderly Affairs — Adult Day Care	GOV 602	23,930
St. Francis Hospital Personal Care Services	GOV 602	29,417
Kalihi Palama — Immigrant Services Center	GOV 803	118,480
Susannah Wesley Community Center — Immigrant Services	GOV 803	39,800

Formal Education

Comprehensive Education Dropout Prevention Program	EDN 108	62,533
Language Arts Multi—Cultural Program	EDN 108	150,000
Maui Hui Malama	EDN 108	36,000
Palama Interchurch Council — Immigrant Youth Program	EDN 108	62,516
Project Holomua	EDN 108	97,000
Pacific and Asian Affairs Council	EDN 207	43,200

Culture and Recreation

Bishop Museum	AGS 881	250,000
Friends of Waipahu Culture Garden Park	AGS 881	50,000
Hawaii Performing Arts	AGS 881	20,000
Hawaii Youth Symphony	AGS 881	25,000
Honolulu Symphony	AGS 881	216,000
Honolulu Theatre for Youth	AGS 881	102,000
Kalihi—Palama Culture and Arts Society Inc.	AGS 881	16,200
Waianae Coast Culture and Arts	AGS 881	45,000

Public Safety

University of Hawaii Youth Development and Research Center (may be considered as a purchase of service)	SOC 394	110,000
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Government—wide Support

Pacific Housing Corporation	GOV 100	63,000
Protection and Advocacy Agency	GOV 102	71,280
Molokai Farm School/Molokai Institute for Agriculture	GOV 102	50,000

SECTION 73. Provided that of the general fund appropriation to the Community Based Services for Mental Health (HTH 401) for fiscal year 1983-84, a lump sum amount of \$1,608,963 shall be for the purchase of mental health and substance abuse services; provided further that the Department of Health shall prepare a report providing details as to how the lump sum has been applied, including: (1) the criteria used in selecting the providers; (2) the sum allocated to each provider; (3) a description of each program or project being funded, including the objectives being sought, the services being provided, and the target group being served; (4) the criteria to be used to evaluate the program or project; provided further that this report shall be submitted not less than twenty days prior to the convening of the 1984 Legislature.

SECTION 74. Provided that the chief executive of the State ensure that all requests for grants, subsidies, and purchases of service for FY 1984-85 are reviewed in full accord with Chapter 42, HRS; provided further that the director of finance allow ample time for the submission and review of applications; provided further that the director of finance provide budget ceiling estimates within which each affected state agency may make fiscally sound recommendations concerning funding for grants, subsidies, and purchases of service; provided further that the chief executive and the directors of affected state agencies establish clear, complete, and specific funding criteria for evaluating requests and make them available to applicants during the application period; provided further that the chief executive ensure that all requests are reviewed in accordance with these criteria and with Section 42-4(d), HRS, which provides agencies with adequate opportunity to discuss their applications and the state agencies' assessments of their applications prior to the finalization of recommendations; provided further that the director of finance and the directors of the affected state agencies develop and implement, prior to the 1984 regular session of the Legislature, specific plans for monitoring and evaluating programs of private agencies with grant, subsidy, or purchase of service contracts and also inform the private agencies of these plans and of their own responsibilities in this area; and provided further that the chief executive comply fully with Section 42-5, HRS, which provides for submission of requests and related findings to the Legislature.

SECTION 75. Provided that Susannah Wesley Community Center and Kalihi-Palama Immigrant Services Center shall jointly develop comprehensive, coordinated immigrant services delivery plan for the Honolulu-Metropolitan area; and provided further that the Susannah Wesley Community Center and Kalihi-Palama Immigrant Services Center shall submit its findings and plan to the Legislature twenty days prior to the convening of the 1984 Regular Session of the Legislature.

SECTION 76. Provided that all attorney fees awarded, ordered, stipulated to or collected by the Legal Aid Society of Hawaii against any state agency or officer, after July 1, 1983, which would cause the amount of state funds to exceed the amount appropriated for each respective fiscal year, shall be paid from or set-off against the sum appropriated for each respective fiscal year to the Legal Aid Society of Hawaii; provided further that the Legal Aid Society of Hawaii shall submit reports to the Legislature twenty days prior to the convening of each regular legislative session. These reports shall include statements of income, expenditures, and accomplishments for the previous fiscal year.

SECTION 77. Provided that the general funds appropriated to Sexual Assault Crisis Center shall be administered by Women Helping Women - Hale Loko Maikai.

SECTION 78. Provided that program I.D. assigned to each organization in Section 61 shall designate the expending agency for the appropriations in that section; provided that the designated expending agency is authorized to delegate to other state agencies the expenditure of funds when it is determined by such agency that it is more advantageous to do so.

SECTION 79. Provided that of the general funds received by the various private agencies in the form of grants-in-aid, such funds or any other public funds shall not be used for salary increases; provided further that if public funds are used for salary increases, the grants-in-aid allocation shall be reduced by the amount of such increases.

PART V. CAPITAL IMPROVEMENT PROJECTS

SECTION 80. CAPITAL IMPROVEMENT PROJECTS AUTHORIZED. The sums of money appropriated or authorized in Part II of this Act for capital investment shall be expended for the projects listed below. The appropriations accounting by the Department of Accounting and General Services shall be made based on the projects listed in this section. Several related or similar projects may be combined into a single project, if such combination is advantageous or convenient, for land acquisition, design and construction purposes, provided that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.)

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
A. ECONOMIC DEVELOPMENT								
TRADE AND FINANCE								
Foreign Trade Zone Services								
1.	Foreign-Trade Zone Industrial Park	FTZ-2	PED107					
Plans and design of site improvements on Oahu, for FTZ activities. Improvements include installation of water and sewer lines, communications and electrical lines, fire hydrants, and other utilities; security fencing; roadway; office space; and other facilities needed to meet foreign-trade zone requirements.								
Plans					50		50	
Design					100		100	
Total Funding					150 D	D	150 D	
AGRICULTURE								
Producty Imprvmt & Mgt Asstnce for AGR								
Plant Pest and Disease Control								
Plant Pest Control								
					PED			
					AGR122			
2.	Greenhouse Facility, DOA Biological Control Program	LS0002						
Design, Construction and Equipment for a Greenhouse Facility in Hawaii.								
Design					39		39	
Construction					371		371	
Equipment					50		50	
Total Funding					460 C	C	460 C	
					AGS			

Animal Pest and Disease Control					
Animal Quarantine				AGR131	
3.	Renovation of Animal Quarantine Water Supply System	LS0003			
	Improvements to existing reservoir tank, pumps, water lines and pumping station at the Animal Quarantine Station				
	Plans		20		20
	Design		25		25
	Construction		390		390
	Total Funding		435 C	C	435 C
				AGR131	
4.	Renovation of Walkways, Animal Quarantine Station	LS0004			
	Plans, design and construction for the renovation of walkways at the Animal Quarantine Station.				
	Plans		20		20
	Design		30		30
	Total Funding		50 C	C	50 C
				AGR192	
	General Support for AGR				
	General Administration for AGR				
5.	Agricultural Park Subdivision, Statewide Plans and construction of on and off site improvements for development of agricultural lots.	AD1			
	Plans		200		200
	Design		300		300
	Total Funding		500 C	C	500 C
6.	DOA Facility, Lihue Kauai	A-K4			
	Design and construct a facility to house DOA Programs on Kauai				
	Construction		458		458

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expendig Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
	Total Funding			AGS	458 C	C	458 C	
7.	Department of Agriculture Facility, Hilo Design, construction and equipment for a facility to house DOA programs in Hilo, Hawaii. Construction Equipment Total Funding	LS0001			1,745 56 1,801 C	C	1,745 56 1,801 C	
8.	Molokai Agriculture Park, Phase II Plans, design and construction for roads and water improvements at the Molokai Agricultural Park. Funds from Section 92, Item A-2, SLH 1982, "Agricultural Park Subdivision, Statewide," may be used to supplement this appropriation. Construction Total Funding	LS0005		AGS				
					250 250 C	C	250 250 C	

Energy Development and Management

PED120

AE8001

- Hawaii Deep Water Cable Program
Planning studies, assessments, and preliminary design, including test for a deep water electrical transmission cable connecting Oahu and other islands. Funds not needed for a cost element may be transferred for use in the other cost element.

Plans		1,000	900	1,900
Design		500	600	1,100
Total Funding	PED	1,500 C	1,500 C	3,000 C

10. Alternate Energy Demonstration and Commercialization Projects AES775

Plans, design, and construction of facilities to demonstrate feasibility of alternate energy resources in Hawaii and for facilities required in the commercialization of alternate energy resources found to be economically feasible. Funds not needed for a cost element may be transferred and used for a different cost element. Funds may be used to match non-state funds.

Plans		614	444	1,058
Land Acquisition		1	1	2
Design		290	430	720
Construction		500	400	900
Equipment		95	225	320
Total Funding	PED	1,500 C	1,500 C	3,000 C

11. Energy Conservation in State Buildings EC8001

Plans and equipment for implementing retrofits and other low cost conservation measures to reduce energy usage in state building and facilities.

Plans		15	15	30
Equipment		35	35	70
Total Funding	PED	50 C	50 C	100 C

Water Development & Irrigation Services

LNR141

12. Water Sources Investigation, and Development, Hawaii G25

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)				
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total Biennium O 1983-85 F	M	
	Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water resources including the improvement of water quality and preservation of water for instream uses.								
	Plans				10	10		20	
	Land Acquisition				20	20		40	
	Design				40	40		80	
	Construction				330	200		530	
	Total Funding			LNR	400 C	270 C		670 C	
13.	Water Sources Investigation, and Development, Oahu		G43						
	Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water resources including the improvement of water quality and preservation of water for instream uses.								
	Plans				10	10		20	
	Land Acquisition				25	25		50	
	Design				25	25		50	
	Construction				240	350		590	
	Total Funding			LNR	300 C	410 C		710 C	
14.	Water Sources Investigation, and Development, Kauai		G44						

Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water resources including the improvement of water quality and preservation of water for instream uses.

Plans	5	5	10
Land Acquisition	10	10	20
Design	20	20	40
Construction	215		215
Total Funding	250 C	35 C	285 C

LNR

LNR141

G45

15. Water Resources Development for Agriculture Statewide
Planning acq design and construc of water facil for agriculture, including water development for aquaculture and rehabilitation of ditch systems.

Plans	10	10	20
Land Acquisition	10	10	20
Design	40	180	220
Construction	1,000	1,000	2,000
Total Funding	1,060 C	1,200 C	2,260 C

LNR

G46

16. Water Sources Investigation, and Development, Maui
Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water resources including the improvement of water quality and preservation of water for instream uses.

Plans	5	5	10
Land Acquisition	10	10	20
Design	30	20	50
Construction	255		255

Capital Improvement Projects

State of Hawaii									
Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)				
					Fiscal M 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F		
Total Funding					LNR	300 C	35 C	335 C	
C. TRANSPORTATION FACILITIES									
AIR TRANSPORTATION FACILITIES AND SVCS									
HIA Facilities & Svcs									
1.	Diamond Head Extension to Overseas Terminal at HIA	A07							
Construct diamond head extension to overseas terminal bldg and appurtenances, ticket & waiting lobbies, enplaning-deplaning roadways, relocate tenants in existing area, furniture landscaping, renovate mechanical and electrical systems in existing terminal areas, offices, baggage claim areas, extend wiki bus road system, and other miscellaneous improvements.									
Construction									
Total Funding					TRN	22,500	B	22,500	
					TRN	15,000 B	B	15,000 B	
					TRN	7,500 E	E	7,500 E	

Construction
Total Funding

3,500	B	11,330	14,830
TRN		10,330 B	10,330 B
3,500 E	E		3,500 E
TRN	N	1,000 N	1,000 N

A11

3. HIA Interisland Complex
Construct interisland complex including buildings, aircraft aprons and taxiways, roadways, parking and other misc improvements. Land acquisition. Relocate existing interisland maintenance, cargo and admin offices. Alterations to existing bldgs aprons, roadways and parking. Install furniture, landscaping and misc equipment. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

Construction
Total Funding

4,660		24,000	28,660
TRN	E	23,000 E	27,660 E
4,660 E	N	1,000 N	1,000 N
TRN			

TRN102

A23

4. HIA Airfield Improvements
Construct taxiways, improve existing taxiways and runways, demolish buildings, install signs, engine run up pad, extend safety areas, strengthen, groove, new emergency generator, install rotating beacon and control panel in control tower realign cables, renovate lighting system & emergency generator & other misc improvements. This project is deemed necessary to qualify for federal aid financing or reimbursement.

Design
Construction
Total Funding

200		110	310
2,000		1,200	3,200
2,100 E		1,310 E	3,410 E
TRN			
100 N	N		100 N

A26

5. HIA South Ramp Improvements

Construct improvements to crash fire station including storage facility for boat vessel, night lighting, debris protection, electrically controlled doors, quick boat launch system and other appurtenances.

Design	25	25
Construction	250	250
Total Funding	275 E	275 E

TRN

8. HIA Terminal Modifications A41

Modifications to facilities including alterations to baggage claim and intranet areas, offices, concessions, signs, holding & waiting areas, federal inspection areas, ceilings, aerospace museum, ticket lobbies, restrooms, and landscaping. Projects for operational and energy efficiency, passenger convenience and other misc improvements.

Design	750	750
Construction	7,540	7,540
Total Funding	4,860 B	4,860 B
	3,430 E	3,430 E

TRN

TRN

9. Service Support Facilities at HIA A43

Construct service support facilities including non potable water transmission and distribution system both on site and off site areas. Construct roadways, structures, utilities, parking in service support areas, site development, lease lots and other misc improvements.

Design	400	200
Construction	6,100	6,100
Total Funding	400 B	5,740 B
	E	560 E

TRN

TRN

Ke-ahole Airport Facilities and Services

TRN114

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)				
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F		
10.	Keahole Airport Improvements Construct modifications to facilities including concession area, offices, emergency generator and duct lines, roads and parking, maintenance baseyard, alterations to improve operational and energy efficiency and other miscellaneous improvements. This project is deemed necessary to qualify for federal aid financing or reimbursement.	C03			1,800	1,000	2,800		
	Construction			TRN	1,700 E	1,000 E	2,700 E		
	Total Funding			TRN	100 N	N	100 N		
11.	Keahole Airfield Improvements Construct aircraft aprons, roads, safety areas, alterations to runways and taxiways. This project is deemed necessary to qualify for federal aid financing or reimbursement.	C05							
	Construction			TRN	1,385	1,100	2,485		
	Total Funding			TRN	1,285 E	1,100 E	2,385 E		
					100 N	N	100 N		
12.	Kahului Airport Facilities and Services Kahului Airport Expansion	D04	TRN131						

Construct additions and alterations to buildings, roads, and parking, aprons, new terminal, taxiways, runways, landcap, furniture, sitework, cargo terminal, offsite drainage, relocate control tower, tenants & other misc improvements. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

Construction				
Total Funding	10,200	9,000	19,200	
	10,100 E	9,000 E	19,100 E	
	100 N	N	100 N	

13. Service Support Facilities at Kahului Airport D08

Clearing and grubbing, install utilities, grade, pave, and light lots, roadways, parking, cargo terminal and other miscellaneous improvements.

Design	250		250	
Construction		2,560	2,560	
Total Funding	250 E	2,560 E	2,810 E	

Molokai Airport Facilities and Services

TRN141

14. Molokai Airport Improvements D55

Construct air taxi facilities, modify existing buildings roadways, parking, & utilities. Construct maintenance baseyard and other miscellaneous improvements.

Design	160		160	
Construction	280	375	655	
Total Funding	440 E	375 E	815 E	

Lihue Airport Facilities and Services

TRN161

15. Lihue Airport Complex E03

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)		
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
	Construct airport facilities including buildings, roads, parking, utilities, aircraft aprons, taxiways, runways, cargo terminal, lease lots and hangars, alteration to existing facilities including buildings, roads, parking, runways, and other misc improvements. This project is deemed necessary to qualify for federal aid financing or reimbursement.						
	Construction			TRN	26,025		26,025
	Total Funding			TRN	25,925 E	E	25,925 E
					100 N	N	100 N
Air Transportation Facilities & Svcs Support							
			TRN195				
16.	Airport Planning Statewide	F04					
	Provide basic data and information for proper planning, preliminary designs, special engineering, architectural, environmental and special studies for the statewide system of airports and continue review and updating of master plans						
	Plans				300	150	450
	Total Funding			TRN	300 B	150 B	450 B
17.	Land Acquisition Statewide	F06					
	Acquisition of land, airport facilities and lease rights for statewide airports.						
	Land Acquisition				6,000		6,000
	Total Funding			TRN	6,000 E	E	6,000 E

TRN195

F08

18. Airport Improvements Statewide
Miscellaneous improvements to various airports to include changes for certification, safety and compliance requirements, improvements to facilities and improvements for operational efficiency. This project is deemed necessary to qualify for federal aid financing or reimbursement.

Design	340		340
Construction	3,700		3,700
Total Funding	TRN	E	3,940 E
	TRN	N	100 N

WATER TRANSPORTATION FACILITIES AND SERVICES

TRN301

J02

19. Improv to Fac Piers 19-34 at Hon. Har
Improvement of facilities in the piers 19 to 34 area including demolition of portion of pier 33 shed, lighting, paving and construct connecting piers at pier 34.

Design	135		135
Construction		1,443	1,443
Total Funding	TRN	1,443 B	1,578 B

J03

20. Misc Improv to Exist Facilities at Hon Har
Miscellaneous improvements to existing piers, sheds and yard facilities at Honolulu Harbor, including improvements to lighting, paving, and other facilities.

Design	15	15	30
Construction	80	85	165
Total Funding	TRN	100 B	195 B

Capital Improvement Projects

State of Hawaii											
Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)					Total M	Total O
					Fiscal M 1983-84	Fiscal M 1984-85	Fiscal M 1985-86	Fiscal M 1986-87	Fiscal M 1987-88		
21.	Improvements to Fort Armstrong Facilities Reconstruction of fendering system at piers 1 and 2 Design Construction Total Funding	J04									
			TRN301		60					60	
					1,165					1,165	
					1,225 E					1,225 E	
22.	Waterfront Redevelopment, Hon Har Design and construct redevelopment of existing facilities between piers 2 to 18. Design Construction Total Funding	J05									
					150					150	
					1,481					1,481	
					1,631 E					1,631 E	
23.	Improvements to Piers 39-40 Complex, Hon Har Shed renovation, pier and yard improvements at piers 39-40 Construction Total Funding	J20									
					1,026					1,026	
					1,026 E					1,026 E	
24.	Baseyard Improvement, Oahu Installation of unleaded gas tank and pump, and construction of custodial office/storage facility at Oahu district baseyard. Design Construction Total Funding	J27									
					3					27	
					25					173	
					28 B					200 B	

25.	Barbers Point Harbor Facilities and Services	TRN303			
	Barbers Pt Deep Draft Harbor Improvements	J11			
	Oahu				
	Incremental development of Barber's Point Harbor including fencing, clearing, grubbing and the construction of pier, yard and shed facilities and utilities.				
	Design				
	Total Funding		250	250	
			B	250 B	250 B
		TRN			
26.	Kewalo Basin Facilities and Services	TRN305			
	Kewalo Basin Improvements, Oahu	J12			
	Improvements at Kewalo Basin including removal of existing catwalks, construction of new catwalks, water circulation structure, fill, revetment, utilities, paving, lighting, and other shoreside improvements.				
	Construction				
	Total Funding		4,750	4,750	
			C	4,750 C	4,750 C
		TRN			
27.	Hilo Harbor Facilities and Services	TRN311			
	Hilo Harbor Improvements, Hawaii	L01			
	Miscellaneous improvements at Hilo Harbor including clearing, grading and fencing of harbor properties and other improvements.				
	Design		32	32	
	Construction			320	320
	Total Funding			320 B	352 B
		TRN	32 B		
28.	Kahului Harbor Facilities and Services	TRN331			
	Kahului Harbor Backup Improvements, Maui	MO1			
	Clearing and grading harbor properties, installation of security fences and gates and other improvements.				
	Design				
			15		15

Capital Improvement Projects

State of Hawaii								
Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			Total M
					Fiscal M 1983-84	Fiscal M 1984-85	Fiscal M 1983-85	Biennium O F
	Construction				147		147	
	Total Funding			TRN	162 B	B	162 B	
29.	Container Facilities at Kahului Harbor Design and construction of pier facility at end of pier 1 including fill and other improvements.	M06						
	Design				120		120	
	Construction			TRN	1,690	B	1,690	
	Total Funding			TRN	120 B	E	120 B	
					1,690 E		1,690 E	
	Kaunakakai Harbor Facilities and Services		TRN341					
30.	Kaunakakai Harbor Improvements, Molokai Reconstruction of facilities at Kaunakakai Harbor, including bulkhead walls, rock walls, grading, paving, utilities and other improvements.	LS0006						
	Design							
	Construction				50		50	
	Total Funding			TRN	543	B	543	
					593 B		593 B	
	Nawiliwili Harbor Facilities and Services		TRN361					
31.	Small Commercial Boat Facilities at Nawiliwili Harbor, Kauai Construction of facilities for small commercial and fishing boats in the northwest end of Nawiliwili Harbor.	K05						
	Construction							
	Total Funding			TRN	145	B	145	
					145 B		145 B	

Water Transportation Fac & Svcs Support		TRN395			
32.	Statewide Harbor Planning Continuing harbor studies, research and advance planning of harbor and terminal facilities on all islands Plans Total Funding	I01		110 110 B	110 110 B
33.	Misc. Imprv. to Fac. at Neighbor Is. Ports Improvements to yard areas, sheds, piers, utilities. Water areas and other facilities. Design Construction Total Funding	I03		15 80 95 B	30 165 195 B
34.	Statewide Commercial Har. Sewer Sys Imprv. Sewer improvements at Honolulu Harbor including piers 19 to 29 areas. Design Construction Total Funding	I04		25 285 310 B	50 628 678 B
LAND TRANSPORTATION FACILITIES AND SERVICES Oahu Highways and Services			TRN501		
35.	Interstate route H-1-Middle Street separation to Aina Koa Avenue, Oahu. Safety improvements along existing Lunalilo Freeway from Middle Street separation to Aina Koa Avenue. This program is deemed necessary to qualify for federal-aid financing or reimbursement. Construction Total Funding	Q44		10,612 1,514 D 9,098 J	10,612 1,514 D 9,098 J

Capital Improvement Projects

State of Hawaii								
Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O	Fiscal M Year O	Total Biennium O	Total Biennium O
					1983-84 F	1984-85 F	1983-85 F	1983-85 F
TRN501								
36.	Interstate Route H-1, East of Halawa I.C. to Middle Street Separation, Oahu. Incremental Construction of eight freeway lanes, including Pearl Harbor, Airport and Keeli interchanges. This project is deemed necessary to qualify for federal-aid financing or reimbursement. Land Acquisition Design Construction Total Funding	R12			588 951 17,995 2,462 D 17,072 J	23,970 3,153 D 20,817 J	41,965 5,615 D 37,889 J	588 951 41,965 5,615 D 37,889 J
37.	Interstate Route H-3, Junction at H-1 to Kaneohe Marine Corps Air Station, Oahu. Incremental construction of divided highway from junction at H-1 to Kaneohe Marine Corps Air Station. This project is deemed necessary to qualify for federal-aid financing or reimbursement. Land Acquisition Design Construction Total Funding	R30				12,368 39,330 6,187 D 45,511 J	12,368 6,590 82,985 12,594 D 89,349 J	

R53

38. Kamehameha Highway, Helemano-Waiialua Junction to Haleiwa Beach Park, Oahu.
Realignment and improvement of highway from Helemano-Waiialua junction to Haleiwa Beach Park. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

Design		693	693
Total Funding	TRN	292 D	292 D
	TRN	401 K	401 K

S68

39. Emergency Truck Turnouts at Pali & Like-like Highways, Oahu.
Construction of emergency truck turnouts. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

Land Acquisition		32	32
Construction		150	150
Total Funding	TRN	67 D	67 D
	TRN	115 K	115 K

TRN501

S78

40. Guardrail & Shoulder Improvements at Various Locations on State Highways on Oahu.
Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of metal guardrails, concrete safety barriers and modernization of existing guardrails at various locations on state highways on Oahu.

Design		10	10
Construction		90	90
Total Funding	TRN	100 D	100 D

S92

41. Likelike Highway Improvements, Vicinity of Kula Kolea to Kam IV Road, Oahu.

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expendig Agency	Appropriations (\$1,000's)				
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total Biennium O 1983-85 F	M	
Hydrologic studies of drainage basins which cause flooding of HBR, and subsequent drainage improvements including new structures. This project is deemed necessary to qualify for federal-aid financing or reimbursement.									
	Design						175	175 D	175
	Total Funding			TRN		D			175 D
Maui Highways and Services									
TRN531									
48.	Haleakala Highway, Hana Highway to Halimaile Rd—Trucklane	V41							
	Construction of highway from Halimaile Road to Kula Highway Junction, including a traffic signal at Pukalani Street Junction, and a truck climbing lane from Hana Highway to Halimaile Road. This project is deemed necessary to qualify for federal-aid financing or reimbursement.								
	Design						190	190 D	190
	Total Funding			TRN		D			190 D
49.	Honoapiilani Highway, Lahaina, Maui	V42							
	Construction of two-lane highway from Honokowai to Honokahua. This project is deemed necessary to qualify for federal-aid financing or reimbursement.								
	Design						48	48	48
	Construction						10,305	10,305	10,305

[illegible]

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
	Drainage improvements at various locations on Kamehameha V Highway, Kaunakakai to Kamalo and Maunaloa Highway. This project is deemed necessary to qualify for federal-aid financing or reimbursement.							
	Construction					1,735	1,735	
	Total Funding			TRN	D	520 D	520 D	
				TRN	L	1,215 L	1,215 L	
	Kauai Highways and Services		TRN561					
54.	Kauai Belt Road, Hanalei Bridge & Approaches Hanalei, Kauai. Construction of new bridge over the Hanalei River, including approaches, next to the existing Hanalei bridge. This project is deemed necessary to qualify for federal-aid financing or reimbursement.							
	Construction							
	Total Funding					989	989	
				TRN	D	247 D	247 D	
				TRN	N	742 N	742 N	
55.	Guardrail and Shoulder Improvement at Various Locations on State Highways on Kauai. Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving & installation of metal guardrails & modernization of existing guardrails at various locations on state highways on Kauai.	X51						

Design Construction Total Funding				10 90 100 D	10 90 100 D	
	TRN561					
56. Kuhio Highway, Kauai. Construction of passing lanes between Hanalei and Wailua. This project is deemed necessary to qualify for federal-aid financing or reimbursement. Land Acquisition Total Funding	X54			154 69 D 85 N	154 69 D 85 N	
	TRN					
	TRN					
	TRN595					
Land Transportation Fac & Svcs Support						
57. Construction of Wheelchair Ramps-State-wide. Construction of wheelchair ramps at various locations along state highways, statewide. Design Construction Total Funding	X91			5 45 50 D	5 45 50 D	
	TRN					
	TRN					
58. Miscellaneous Improvements to Existing Intersections & Highway Facilities, State-wide Miscellaneous improvements to existing intersections and highway facilities necessary for traffic safety. This project is deemed necessary to qualify for federal-aid financing or reimbursement. Land Acquisition Design Construction Total Funding	X98			100 235 1,815 625 D 1,525 N	100 235 1,815 625 D 1,525 N	
	TRN					
	TRN					

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84	Fiscal M Year O 1984-85	Fiscal M Year O 1983-85	Total M Biennium O 1983-85

59. Highway Planning, Statewide. X99

Road use, road life, economic studies, research and advance planning of federal-aid and non federal-aid highway projects. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

Plans

Total Funding

1,390 799 2,189
490 B 280 B 770 B
900 N 519 N 1,419 N

TRN

TRN

D. ENVIRONMENTAL PROTECTION

POLLUTION CONTROL

Solids, Liquids, Gases, and Noise

HTH840

1. Sewerage Construction Grants 840001

Grants to county or state agencies for eligible water pollution control facilities conforming with the state WPC plan authorized by Act 187/79. State may make grants to finance eligible planning, design and/or construction costs of projects receiving federal grants.

Plans

Design

Construction

Total Funding

16 96 112
657 227 884
1,846 2,196 4,042
2,519 C 2,519 C 5,038 C

HTH

PRESERVATION AND ENHANCEMENT

Forests and Wildlife Resources

LNR402

D-08

2. Oahu DLNR Baseyard
Plan, design and construct a departmental baseyard on Oahu, replacing the old inadequate facilities with the needed office, storage, covered parking, maintenance, nursery, and research/educational/informational facilities.

Plans	25		25
Design		40	40
Total Funding	25 C	40 C	65 C

LNR

E. HEALTH

PHYSICAL HEALTH

Hospital Care

Leahi Hospital

HTH242

242001

1. Leahi Hospital, Young Building Renovation
Plans and construction for additions, renovations and remodeling of medical and ancillary facilities for Young building.

Construction		6,089	6,089
Equipment		50	50
Total Funding	C	6,139 C	6,139 C

AGS

MENTAL HEALTH

Hawaii State Hospital

HTH430

430001

2. Hawaii State Hospital
Plans and construction for development of state hospital, including renovations and modifications.

Design		1,271	1,271
Total Funding	C	1,271 C	1,271 C

AGS

F. SOCIAL SERVICES

SERVICES TO NATIVE HAWAIIANS

Planning, Developmt and Mgt for Hawn Homestead Lands

HHL602

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)					
					Fiscal M Year O 1983-84	Fiscal M Year O 1984-85	Fiscal M Year O 1985-86	Fiscal M Year O 1986-87	Fiscal M Year O 1987-88	Total M Biennium O 1983-85 F
1.	Anahola Development Plans (2500 Acres) To prepare plans for future development of the Anahola area, Kauai Plans Total Funding	H-45			120					120
				HHL	120 C			C		120 C
2.	Hoolehua Development Plans (13100 Acres) To prepare plans for future development of the Hoolehua area, Molokai Plans Total Funding	H-62			120					120
				HHL	120 C			C		120 C
3.	Hydroelectric Power Plants, Molokai Water System To construct small scale hydroelectric power generating plants in the Molokai water system to develop electrical energy to be used for the system's consumption or sold to a local power agency under a cogenerator contract Construction Total Funding	H-63								
					500					500
				HHL	500 C			C		500 C
4.	Waimanalo Residence Lots, Gravity Sewer System To prepare detailed designs and plans and to construct a gravity sewer system for sewage disposal for half of the existing 510 homes in the Waimanalo residence lots subdivision, Oahu (the other half already has such a system)	H-64								

Design Construction Total Funding				100 100 C	1,000 1,000 C	100 1,000 1,100 C
5. Keaukaha Residence Lots, Gravity Sewer System To prepare detailed designs and plans and to construct a gravity sewer system for sewage disposal for existing and future homesteaders of Keaukaha residence lots, Hilo, Island of Hawaii	H-65		HHL			
Design Total Funding					100 100 C	100 100 C
		HHL602	HHL	C		
6. Nanakuli Residence Lots, Gravity Sewer System To prepare detailed designs and plans and to construct a gravity sewer system for sewage disposal for existing and future homesteaders of Nanakuli residence lots, Oahu	H-66					
Design Total Funding					100 100 C	100 100 C
			HHL	C		
7. Nanakuli Residence Lots, Series 6 To prepare detailed designs and plans and to construct site improvements (access road and utilities) to develop an additional forty (40) residential single family lots in Nanakuli, Oahu	H-67					
Design Total Funding					130 130 C	130 130 C
			HHL	C		
8. Panaewa Farm Lots, Phase 2 To prepare detailed designs and plans and to construct site improvements (access roads and utilities) to service 25 existing farm lots and to develop approximately sixty (60) new farm lots in Panaewa, Hilo, Island of Hawaii	H-68					

Capital Improvement Projects

State of Hawaii		Appropriations (\$1,000's)						
Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	

Design
Total Funding

				HHL		200	200	
					C	200	C	200

9. Panaewa Residence Lots, Unit 4 H-69

To prepare detailed designs and plans and to construct site improvements (access roads and utilities) to develop an additional forty (40) residential single family lots in Panaewa, Hilo, Island of Hawaii

Design
Total Funding

				HHL		90	90	
					C	90	C	90

G. FORMAL EDUCATION

LOWER EDUCATION

Instruction
Regular Instruction Program

EDN105

1. Relocate or Construct Portable Classrooms 001

Relocation or construction of portables each school year to meet enrollment shifts among schools, program demands, unforeseen emergencies, and to provide temporary facilities while new schools are being planned and/or under construction. These funds are also for secondary schools

Design
Construction
Total Funding

				AGS	100	100	200	
					900	900	1,800	
					1,000	C	1,000	C

2. Minor Improvements 002

Minor additions, renovations and improvement to buildings and school sites.

Design					
Construction					
Equipment					
Total Funding					
	70	140			
	225	450			
	5	10			
	300 C	600 C			
	AGS				

3. Lump Sum for Master Plans and Site Studies 003

Minor Land Acquisition
Acquisition of small parcels, master planning, pre-land acquisition studies, site selection and feasibility studies to meet future and unforeseen school needs. CIP assistance from DAGS in providing cost estimates for budgeting and expenditure planning

Plans					
Land Acquisition					
Total Funding					
	99	199			
	1	1			
	100 C	200 C			
	AGS				

4. Removal of Architectural Barriers and Special Education Classroom Improvements 005

To provide ramps and other corrective measures for easy accessibility of school facilities to handicapped persons.

Design					
Construction					
Total Funding					
	100	100			
	600	1,200			
	700 C	1,300 C			
	AGS				

EDN105

5. Lump Sum - Fire Protection Systems; Fire Alarm Systems 008

Fire protection to meet water system standards

Design					
Construction					
Total Funding					
	50	100			
	250	500			
	300 C	600 C			
	AGS				

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)					Total M
					Fiscal M 1983-84	Fiscal M 1984-85	Fiscal M 1985-86	Fiscal M 1986-87	Fiscal M 1987-88	
6.	Lump Sum - Correction to Sound Problem To provide corrective measures on excessive exterior noise and ventilation problems that affect classrooms Design Construction Total Funding	009			100 650 750 C	100 650 750 C				200 1,300 1,500 C
7.	McKinley High Design and construct renovation of Bldg C. Construction Equipment Total Funding	140003		AGS	1,190 10 1,200 C					1,190 10 1,200 C
8.	McKinley High Design and construct renovation of Bldg D. Design Construction Equipment Total Funding	140004			135	1,180 20 1,200 C				135 1,180 20 1,335 C
9.	McKinley High Design and construct renovation of Building B. Design Total Funding	140005		AGS	135 C					
10.	Mililani High School Design and construct classroom building, equipment and appurtenances.	215007		AGS	C	135 135 C				135 135 C

			EDN105	AGS	C	120	120 C	120	120 C
Design									
Total Funding									
11.	Waialua Hi, Oahu	234001							
	Design and construct industrial education classrooms, ground and site improvements.								
Design									
Construction									
Equipment									
Total Funding									
12.	Waipahu Intermediate	331002							
	Design and construct classroom building, ground and site improvements.								
Design									
Construction									
Equipment									
Total Funding									
13.	Leihoku Elementary	341004							
	Design and construct classroom bldg, ground and site improvements								
Design									
Construction									
Equipment									
Total Funding									
14.	Kahuku High School	410005							
	Design and construction for three shops.								
Construction									
Equipment									
Total Funding									
15.	Laie Elementary	420006							
	Design and construct classrooms, equipment and appurtenances.								
Design									
Construction									
Equipment									
Total Funding									

Capital Improvement Projects

State of Hawaii		Appropriations (\$1,000's)						
Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	
	Design Total Funding		EDN105	AGS	C	60	60 C	
16.	Honokaa High and Elem Sch Design and construction of PE locker shower and classrooms; covered walkway, access road; parking; equipment and appurtenances; paved playcourts. Construction Equipment Total Funding	507002				1,700 10 1,710 C	1,700 10 1,710 C	
17.	Kaumana Elementary Design and construction elementary classrooms, equipment and appurtenances, covered walkway Construction Equipment Total Funding	512001		AGS	C	750 8 758 C	750 8 758 C	
18.	Kealakehe Elem & Inter School, N. Kona Design and construction of PE locker shower facility, paved playcourts, equipment and appurtenances Construction Equipment Total Funding	514001		AGS	C	1,345 10 1,355 C	1,345 10 1,355 C	

19.	Konawaena High and Inter Kona, Hawaii Design and construction-music building equip- ment and appurtenances Construction Equipment Total Funding	518002	AGS	930 10 940 C	C	930 10 940 C
20.	Konawaena High and Inter School Design and construction classroom building equipment and appurtenances Design Construction Equipment Total Funding	518003	AGS	70 70 C	992 20 1,012 C	70 992 20 1,082 C
21.	Pahoa High and Elementary School Design and construction-PE/Athletic field, paved playcourts, equipment and appurte- nances. Construction Equipment Total Funding	523004	EDN105	1,836 2 1,838 C	C	1,836 2 1,838 C
22.	Pahoa High & Elementary Design and construction secondary classrooms, covered walkway, parking, equipment and appurtenances Design Construction Equipment Total Funding	523007	AGS	90 1,392 20 1,412 C	C	90 1,392 20 1,502 C
23.	Waiakea Elementary Design and construction classroom building, covered walkway, parking, equipment and appurtenances.	524006	AGS	90 C	90 C	1,502 C

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total Biennium O 1983-85 F	M
	Design Construction Equipment Total Funding				60	850 12 862 C	60 850 12 922 C	
24.	Hana High School Gymnasium Design, construction and equipment for a new gymnasium for Hana High School, Hana, Maui Construction Total Funding	602004		AGS	60 C			
25.	Wailuku Elementary School Land Acquisition Land Acquisition Total Funding	623009		AGS	250 250 C	C	250 250 C	
26.	Makawao Intermediate School Plan, design and construct first increment; classrooms, parking, playground, playfield, ground and site improvements. Construction Equipment Total Funding	625002	EDN105	AGS	200 200 C	C	200 200 C	
27.	Makawao Intermediate School Design and construct classrooms, ground and site improvements. Design	625003		AGS	5,900 20 5,920 C	C	5,900 20 5,920 C	
							175	175

	Construction Equipment Total Funding			2,000 22 2,022 C	2,000 22 2,197 C
28.	Makawao Intermediate School Design and construct PE locker shower facility, ground and site improvements. Design Construction Equipment Total Funding	625004	AGS	175 C	80 955 10 965 C 1,045 C
29.	Kapaa Elementary Design and construct classroom building, equipment and appurtenances. Design Total Funding	703003	AGS	C	60 60 C
30.	Kapaa High and Inter Design and construct 12 classrooms, TWC, equipment and appurtenances. Construction Equipment Total Funding	704003	AGS	3,190 30 3,220 C	3,190 30 3,220 C
31.	Kekaha School Design and construct classroom building, equipment and appurtenances. Construction Equipment Total Funding	707002	EDN105	C	880 12 892 C
32.	Wilcox Elementary Design and construct classroom building, equipment and appurtenances. Design	713002	AGS	C	45

Capital Improvement Projects

State of Hawaii										
Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expendig Agency	Appropriations (\$1,000's)					
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Fiscal M Year O 1983-85 F	Total M Biennium O 1983-85 F		
	Construction Equipment Total Funding			AGS	45 C	508 C	500 8	553 C		
	PUBLIC SERVICE Public Libraries		EDN407							
33.	Kalihi Palama Library Improve lighting in the reading areas of the library and remove asbestos from ceiling Design Construction Total Funding	028-1			25 175 200 C	C	25 175 200 C			
34.	Kahului Library Design, construction and equipment for expansion and renovation to serve as main library in Kahului, Maui Design Total Funding	LS0008		AGS	50 50 C	C	50 50 C			
35.	Pearl City Regional Library Design, construction and equipment for expansion of main reading room at the library. Design Total Funding	LS0009		AGS	55 55 C	C	55 55 C			
36.	Hawaii State Library	LS0010	EDN407	AGS						

Design, construction and equipment for the renovation of the existing Hawaii State library.

Design	50	50
Construction		550
Total Funding	50 C	600 C

AGS

HIGHER EDUCATION

University of Hawaii, Manoa
Instruction—UOH, Manoa

UOH101

37. George Hall Renovations 022

Renovations to accommodate the school of travel industry management including improvements to lighting, acoustics, ventilation and circulation systems.

Design	32	32
Construction	3,697	3,697
Equipment	360	360
Total Funding	3,697 C	4,089 C

AGS

38. Agricultural Sciences Facilities, Phase IIA 043

Design, construction and furniture and equipment for facilities for the Department of Agronomy and Soil Science, & Agricultural Services Center.

Design	72	72
Equipment	1,200	1,200
Total Funding	1,272 C	1,272 C

AGS

39. Swimming Pool Complex, Phase II 049

Design, construction and furniture and equipment for the swimming pool complex, Phase II

Design	22	22
Equipment	250	250
Total Funding	272 C	272 C

AGS

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)				
					Fiscal M Year O 1983-84	Fiscal M Year O 1984-85	Fiscal M Year O 1985-86	Total M Biennium O 1983-85	Total M Biennium O 1985-86
40.	Renovation of Existing Facilities for Speech Pathology and Audiology Renovation to existing facilities to relocate the division of Speech Pathology and Audiology of the School of Medicine.	072							
	Design				34			34	
	Construction				306			306	
	Equipment				30			30	
	Total Funding			AGS	370 C		C	370 C	
	Organized Research—UOH, Manoa		UOH102						
41.	Mauna Kea Observatory, Power University of Hawaii Design & construction for a permanent electrical transmission and distribution system from the Saddle Road to the summit of Mauna Kea, including substations and switchgear	149							
	Construction								
	Total Funding			AGS	C	2,000	2,000 C	2,000	2,000 C
	Student Services—UOH, Manoa		UOH105						
42.	Campus Housing Facilities, Phase 5 University of Hawaii, Manoa Campus Design, construction, furniture & equipment for student housing facilities, to provide accommodations for approximately 500 people.	207							
	Plans								
	Total Funding			AGS	B	150	150 B	150	150 B

43.	University of Hawaii Baseball Stadium Complex Plans and construction for development of a baseball stadium complex, including renovations and modifications. Construction Total Funding	217	AGS	2,740 2,740 C	C	2,740 2,740 C
44.	Snack Bar Replacement University of Hawaii at Manoa Design, construction and equipping of replacement of snack bar on Maile Way to make way for the construction of Hamilton Library, Phase III Design Total Funding	222	AGS	B	152 152 B	152 152 B
45.	Physical Educational Facilities, Second Increment, University of Hawaii at Manoa Facilities for the physical education, intramurals and athletic programs including replacement of Klum Gym, expansion of locker rooms, classrooms, seminar rooms, teaching and research laboratories. Design Total Funding	LS0012	AGS	C	360 360 C	360 360 C
Institutional Support—UOH, Manoa						
UOH106						
46.	Modifications to Existing Facilities to Meet HOSHA and Other Code Requirements Modifications to existing facilities to meet HOSHA and other code requirements Design Construction Equipment Total Funding	250	AGS	30 256 14 300 C	C	30 256 14 300 C

Capital Improvement Projects

State of Hawaii											
		Program and Capital Project		Capital Project No.	Program ID.	Expendig Agency	Appropriations (\$1,000's)				
Item No.							Fiscal M 1983-84	Fiscal M 1984-85	Fiscal M 1985 F	Biennium O 1983-85	Total M 1983-85 F
47.	Modifications to Existing Facilities for the Physically Handicapped			255							
	Modifications to restrooms and elevators and the installation of new elevators and ramps in existing buildings to serve the handicapped in wheelchairs.										
	Design						25	25			50
	Construction						175	175			350
	Total Funding					AGS	200 C	200 C			400 C
48.	Energy Conservation Modifications			257							
	Modifications to existing facilities to conserve energy and installation of energy conservation measures. (Funds may be expended by the University of Hawaii to supplement federal/state matching funds for energy conservation measures.)										
	Design						45	45			90
	Construction						455	455			910
	Total Funding					AGS	500 C	500 C			1,000 C
49.	UNIVERSITY OF HAWAII, HILO										
	Instruction—UOH, Hilo										
	Renovation of Existing Buildings. University of Hawaii at Hilo.			333	UOH211						

Design, construction, furniture and equipment to improve college hall, old library, other buildings, and to relocate and renovate portable buildings, and to provide new space to accommodate changing and expanding programs.

Design	15	15
Construction	1,900	1,900
Equipment	60	60
Total Funding	1,975 C	1,975 C

AGS C

Institutional Support—UOH, Hilo UOH216

50. General Utilities, Roads & Site Improvements
University of Hawaii at Hilo 433
Design and construction of site improvements and utilities for the University of Hawaii at Hilo campus.

Design	45	45
Construction	455	455
Total Funding	45 C	500 C

AGS 455 455 C

Honolulu Community College
Instruction—Honolulu Community College UOH301

51. Honolulu CC-Auto Mechanic Shop, Including Site Development A15

Design, construction, furniture and equipment to provide shops, classrooms, specialized facilities and offices for the auto mechanics program, and parking lot, including general utilities, street lighting, and landscaping.

Design	74	74
Construction	4,208	4,208
Equipment	606	606
Total Funding	4,888 C	4,888 C

AGS C

Institutional Support—Honolulu CC UOH305

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M 1983-84 F	Fiscal M Year O 1984-85 F	Fiscal M Year O 1983-85 F	Total M Biennium O 1983-85 F
52.	Honolulu CC - Energy Conservation Measures Design, construction and equipment to modify existing buildings and utilities systems to conserve energy. Design Construction Total Funding	A76			98 451 549 C			98 451 549 C
53.	Kapiolani Community College Instruction—Kapiolani Community College Kapiolani CC, Diamond Head - Buildings B, D and Site Preparation. Design, construction, furniture and equipment for developing facilities including site work, roadways, utilities and buildings. Equipment Total Funding	B30	UOH311	AGS				
54.	Kapiolani CC, Diamond Head - Buildings A, C and Site Preparation. Design, construction, furniture and equipment for developing facilities including site work, roadways, utilities and buildings. Construction Total Funding	B31	UOH311	AGS	615 615 C	C		615 615 C
				AGS		8,069 C	8,069	8,069 C

UOH315

Institutional Support—Kapiolani CC

B06

Kapiolani CC, Diamond Head - Roadway Improvements, Increments 1 & 2
Design and construction of street widening, sidewalks, street lights, signal lights and underground utilities.

Design 54 82 136
Construction 643
Total Funding 54 C 725 C 779 C
AGS

55.

B07

Kapiolani CC - Energy Conservation Measures
Design, construction and equipment to modify existing buildings and utilities systems to conserve energy.

Design 13 13
Construction 88 88
Total Funding 101 C C 101 C
AGS

56.

UOH325

Leeward Community College

Institutional Support—Leeward CC

L80

Leeward CC - Energy Conservation Measures
Design, construction and equipment to modify existing buildings and utilities systems to conserve energy.

Design 20 20
Construction 135 135
Total Funding 155 C C 155 C
AGS

57.

UOH505

Maui Community College

Institutional Support—Maui Community College

M75

Maui CC-Site Development

58.

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total Biennium O 1983-85 F	M
	Clearing, grading and landscaping of undeveloped lands, including additional parking, roadways, lighting, and utilities. Construction Total Funding			AGS	379 379 C	C	379 379 C	
	Kauai Community College Instruction—Kauai Community College		UOH601					
59.	Kauai Community College-Social Sciences Laboratory Plans, construction and equipment to provide laboratories, offices and support spaces for the social sciences program. Equipment Total Funding	LS0013		AGS	33 33 C	C	33 33 C	
	Institutional Support—Kauai CC		UOH605					
60.	Kauai CC - Energy Conservation Measures Design, construction and equipment to modify existing buildings and utilities systems to conserve energy. Design Construction Total Funding	K83		AGS	27 187 214 C	C	27 187 214 C	
61.	Kauai Community College-extension to Welding Shop	LS0014		AGS		C		

Design, Construction and Equipment for the
Extension of Welding Shop Building to House
Machine Shop.
Equipment
Total Funding

AGS
17 17 C
25 25 C
42 42 C

HIGHER EDUCATION STATE-WIDE SUP-
PORT

Institutional Sppt—UOH, System-wide Sppt
529
Removal, Encapsulation & Enclosure of
Asbestos Materials, Statewide, Univ of
Hawaii

UOH903

Corrections and renovations to University
buildings with identified asbestos hazards
Design
Construction
Total Funding

AGS
175 175
1,825 1,825
2,000 C 2,000 C

H. CULTURE AND RECREATION

CULTURAL ACTIVITIES

Historical and Archaeological Places

LNR801

1. Statewide Historic Preservation Program
Planning, appraisal and acquisition of signifi-
cant sites threatened by development.
Plans

LNR
50 50 C
50 50 C
100 100 C

2. Iolani Palace Restoration
Restoration of coronation stand and partial wall
and iron fence surrounding this historic site,
landscaping and remodeling of Kamaina Build-
ing as an orientation building.

LNR
100 100
900 900
1,000 C 1,000 C

Design
Construction
Total Funding

Replacement of KHET transmitter and antenna on Oahu, replacement of KMEB transmitter and feedlines on Maui

Equipment				250	
Total Funding			C	250	C

6. Replace HPBA Studio Cameras
Replacement of studio cameras
Equipment
Total Funding

				520	
		C	520	520	C

7. Acquisition of a Computer Editing System
Acquisition of a special computer editing controller, special video and audio signal switcher, and magnetic disc and/or paper tape storage media.
Equipment
Total Funding

				275	
		C	275	275	C

RECREATIONAL ACTIVITIES

LNR806

Parks Recreation

8. Akaka Falls

Develop a master plan for this existing park. Consider improvements such as park expansion to a new lookout area. An interpretive program, redesign of existing lookout and trail development to correct hazardous conditions

Design				15	
Construction				100	
Total Funding				115	C

9. Wailua River State Park

				20	
				100	
				120	C

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)				
					Fiscal M Year O 1983-84	Fiscal M Year O 1984-85	Fiscal M Year O 1985-86	Total Biennium O 1983-85	Total Biennium F 1985-86
10.	Land acquisition of inholdings. Archaeological-Biological research, development of interpretive program and facilities according to master plan incl. Fern Grotto, Lydgate Beach Marina and other areas along Wailua River. (Former LNR-803 Project F31 and LNR-805-F76 as well as Project F54) update master plan & provide management plan. Reconstruction of park facilities			LNR	50			50	
					15			15	
					135	140		275	
					200 C	140		340 C	
11.	Kaena Point State Park	F72		LNR	5			5	
					5	50		55	
					130	500		630	
					140 C	550 C		690 C	

Incremental acquisition of private lands, development of beach parks from Makua to Mokuieia. Also includes funds for temporary management of shoreline areas to control existing public use. Includes Upland Peacock Flats area as per master plan.

Land Acquisition 500
Design 60
Construction 75
Total Funding 635 C
LNR 75 C
710 C

12. Hapuna Beach State Park. F75

Plans and construction, including acquisition of land, as per master plan.

Design 5
Construction 20
Total Funding 25 C
LNR 15
180
195 C
200
220 C

13. Na Pali Coast State Park F80

Provision of camping, and hiking facilities, protection and interpretation of historic and archaeological sites, management facilities for wilderness type park research of cultural and natural features, and planning for the management of these features and public use of the area.

Plans 10
Total Funding 10 C
LNR 40
40 C
50
50 C
LNR806

14. Waimea Pier F82

Plans and construction for the reconstruction of Waimea landing for recreational purposes. Includes development onshore for parking, restroom facilities, and landscaping.

Land Acquisition 10
Design 5

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)					
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F			
15.	Construction				10			10		
	Total Funding			LNR	25 C		C	25 C		
	Rainbow Bay		F83							
	Background investigation and planning for conversion of Aiea Bay into "Rainbow Bay - A Kokua Concept" as requested by the Pearl Harbor Task Force. Funding included for anticipated first phase development of land area bordering Aiea Bay. Maximum of 40 acres available. This project is deemed necessary to qualify for federal-aid financing or reimbursement.									
16.	Construction									
	Total Funding			LNR	C	450	450 C	450		450 C
	Sacred Falls State Park		H45							
	Plans and construction for incremental development of camping, historic, recreational and other park facilities as per master plan.									
17.	Land Acquisition									
	Design							100		100
	Construction					5		60		5
	Total Funding			LNR	5 C	160 C	160 C	165 C		165 C
	Kona Airport Park		H47							

Incremental design and construction for shoreline park development as determined by master plan. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

Design	15	5	20
Construction		460	460
Total Funding	LNR	465 C	480 C

LNR806

18. Hanalei Recreational Pier, Hanalei, Kauai H80
Restoration of Hanalei recreational pier.

Design	5	5	10
Construction		600	600
Total Funding	LNR	605 C	610 C

AGS889

19. Spectator Events & Shows—Aloha Stadium B21
Embankment Stabilization on Aloha Stadium Grounds

Stabilization and restoration of embankments on stadium grounds.			
Construction	260		260
Total Funding	AGS	260 C	260 C

20. Corrosion Protection of the Structural Framing Element B68

Clean, repair, sandblast and paint all badly corroded areas of the structural framing elements and correct the primary causes of the continuing corrosion.			
Design	300		300
Construction	3,000		3,000
Total Funding	AGS	3,300 C	3,300 C

21. Renovation of Seating Areas B69

Capital Improvement Projects

State of Hawaii		Appropriations (\$1,000's)									
Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expendig Agency	Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F				
	Renovation of the seat plates, bleacher units, seat standards and other areas by repairing, rust-proofing and painting and repair the drainage system.					175	175				
	Design Construction					1,550	1,550				
	Total Funding			AGS	C	1,725 C	1,725 C				
	GENERAL ADMIN FOR CULTURE & RECREATION		LNR809								
22.	SCORP (State Comprehensive Outdoor Recreation Plan) Continuous updating of the state comprehensive outdoor recreation plan to qualify for federal grants under the land and water conservation fund. Also refine and implement the goals, objectives and policies of the Hawaii state plan as provided in chapter 226, Hawaii Revised Statutes This project is deemed necessary to qualify for federal aid financing or reimbursement.	F05									
	Plans					100	100				
	Total Funding			LNR LNR	C N	50 C 50 N	50 C 50 N				
23.	Statewide Minor Improvements Minor additions, renovations and improvements to park facilities	H09									

Design	5	5	10
Construction	50	50	100
Total Funding	55 C	55 C	110 C

I. PUBLIC SAFETY

SAFETY FROM CRIMINAL ACTIONS

General Support—Criminal Action

General ADM—Confinement

SOC493

1. Oahu Medium Security Correctional Facility 8203

For the acquisition of all or that portion of tax map key 9-9-10:10 and 9-9-10:26 and the planning, design, construction and equipment for a medium security correctional facility

Land Acquisition

Design

Construction

Total Funding

	521		521
	1,400		1,400
	25,000	25,000	50,000
AGS	26,921 C	25,000 C	51,921 C

SAFETY FROM PHYSICAL DISASTERS

Amelioration of Physical Disasters

DEF110

2. Waiawa Army National Guard Armory Addition A25

Planning and construction of an addition to the existing Waiawa Armory at Pearl City, Hawaii. Addition will be of permanent masonry construction, including all utilities, access road, parking areas, fencing, and other supporting features required to complete the facility for occupancy. This project is deemed necessary to qualify for federal aid financing or reimbursement.

Design

Construction

Total Funding

		120	120
		1,880	1,880
	C	800 C	800 C
AGS	N	1,200 N	1,200 N

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)				Total M Biennium O 1983-85 F
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F			
3.	Additional Improvements at the Deptl Admin Bldg & 100-Man Armory, & Engineering Office Planning and Construction of additional improvements at the departmental administration building and 100-Man armory for providing facilities for the joint staff of the Adjutant General's office, the Recruiting and Retention office, and the Hawaii Area Command to include administrative space, parking, landscaping, fencing, and other improvements. Relocation of engineering office	A29			650				650
	Construction								
	Total Funding		DEF110	AGS	650 C		C		650 C
4.	Additional Improvements to National Guard Armories Planning and construction of additional improvements at all National Guard armories to upgrade facilities to conform to current national guard bureau standards and criteria and to meet other unit requirements. This project is deemed necessary to qualify for federal aid financing or reimbursement.	A31			25	25			50
	Design								
	Construction				100	100			200
	Total Funding			AGS	125 C	125 C			250 C

5. Army National Guard Armory, Wheeler A35
AFB, Hawa

Planning & construction of the expansion of the existing Army aviation support facilities & a special designed armory facility of permanent steel and masonry type construction, and including all utilities, access road, parking areas, security fencing, and other supporting features. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

Design	25	25
Construction	1,225	1,225
Total Funding	250 C	250 C
	1,000 N	1,000 N

6. Replacement of Disaster Warning Sirens C12

Incremental replacement of civil defense disaster warning sirens, statewide, worn out and unserviceable due to age, use and exposure. This is a continuing program from year to year. This project is deemed necessary to qualify for federal-aid financing or reimbursement.

Plans	1	1	2
Land Acquisition	1	1	2
Design	18	18	36
Construction	226	250	476
Total Funding	133 C	145 C	278 C
	113 N	125 N	238 N

DEF110

7. Additional Disaster Warning Sirens C13

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expending Agency	Appropriations (\$1,000's)			
					Fiscal M 1983-84 F	Fiscal M Year O 1984-85 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F
	Incremental installation of additional civil defense disaster warning sirens, statewide, to expand the coverage of warning system to keep pace with new developments, growth of communities and population shifts. This is a continuing program from year to year. This project is deemed necessary to qualify for federal-aid financing or reimbursement.							
	Plans				1	1	2	
	Land Acquisition				1	1	2	
	Design				38	38	76	
	Construction				416	462	878	
	Total Funding			AGS	248 C	271 C	519 C	
				AGS	208 N	231 N	439 N	
8.	Additional Improvements for Birkhimer Emergency Operating Center							
	Planning and construction of additional improvements at Birkhimer emergency operating center for which funds were not available in the original construction. This project is deemed necessary to qualify for federal-aid financing or reimbursement.							
	Design					20	20	
	Construction					150	150	
	Equipment					30	30	
	Total Funding			AGS	C	180 C	180 C	
				AGS	N	20 N	20 N	

K. GOVERNMENT-WIDE SUPPORT

Exec Directm, Coord, & Policy Development Office of the Governor		GOV100			
1.	Project Adjustment Fund To establish a contingency fund for project adjustment purposes subject to the provisions of the appropriations act (To be expended by the Office of the Governor).	G01			
	Design		2,800 ¹	5,800 ¹	
	Total Funding		3,000 3,000	6,000 3,000	
		GOV	3,000 €	6,000 €	
			2,800 C ¹	5,800 C ¹	
POLICY DEVELOPMENT AND COORDINATION					
	Statewide Plan and Coordination	PED103			
2.	Kaka'ako Community Development District, HCD001 Oahu Plans and designs for development of the Kaka'ako area, including addressing present needs as well as long-range potentials. May be used to match federal and non-state funds, as may be available. Construction Total Funding		5,500	11,170	
		PED	5,500 C	5,670 C	
				11,170 C	
GENERAL SERVICES					
	Property Management				
	Public Lands Management	LNR101			
3.	Waimanalo Development, Oahu Treatment Plant, Waimanalo, Koolauopoko, Oahu Ongoing program-primarily drainage. Waimanalo sewage treatment plant Design Construction	E04			
			20	20	
			130	130	

Capital Improvement Projects

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expendig Agency	Appropriations (\$1,000's)				
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F	Total M	
	Total Funding			LNR	150 C	C	150 C		
	Facilities Construction and Maintenance Construction		AGS221						
4.	Kaunakakai Civic Center Land acquisition, design and construction of a new state office building to accommodate various agencies. Land Acquisition Total Funding	A39				1,198 1,198 C	1,198 1,198 C		
			AGS221	AGS	C				
5.	State Office Bldg. No. 2, Phase II Design & Construct phase II of a new state office building in the Mililani mall block to include demolition, landscaping and continuation of phase I. Construction Total Funding	A40							
				AGS	14,542 14,542 C	C	14,542 14,542 C		
6.	New Makai Parking Garage Design and construct a parking structure on lot A to service the state buildings in the area, to include landscaping and demolition and temporary parking facilities on the judiciary complex site. Also includes office space in the structure. Design Construction Total Funding	A56							
				AGS	90 4,726 90 C	C	90 4,726 90 C		

7.	Advance Planning, Statewide Provide assistance to the public, state and counties in matters relating to public works division. It includes the preparation of reports, studies, inventories, reviews and performance of all necessary activities to carry out DAGS functions.	B27	AGS	4,726 D	D	4,726 D
	Plans					
	Total Funding			120	120	240
			AGS	120 C	120 C	240 C
8.	Remodeling State Office Buildings Design and construction of remodeling and upgrading state office buildings, statewide. This project will supplement funds from Act 1/81, Item K-10 also includes equipment.	B28	AGS			
	Design			54	60	114
	Construction			384	400	784
	Equipment			17	20	37
	Total Funding		AGS	455 C	480 C	935 C
				AGS221		
9.	State Capitol Improvements and Renovations Improvements to the building systems including, air conditioning, office renovations, pool improvements, and other facilities improvements and renovations for the State Capitol.	B41	AGS			
	Design			79	36	115
	Construction			500	365	865
	Total Funding		AGS	579 C	401 C	980 C
10.	Kekuanaoa Building Renovation Design and construct alterations for new occupants of space vacated in the Kekuanaoa Building.	B56	AGS			
	Construction			1,005	C	1,005
	Total Funding		AGS	1,005 C		1,005 C

Capital Improvement Projects

State of Hawaii

Item No.	Program and Capital Project	Capital Project No.	Program ID.	Expendig Agency	Appropriations (\$1,000's)				
					Fiscal M Year O 1983-84 F	Fiscal M Year O 1984-85 F	Total M Biennium O 1983-85 F		
11.	Kalanimoku Building A/C Improvement Design and construction of modifications to the Kalanimoku Building air conditioning system for increased efficiency and to meet additional load requirements Construction Total Funding	B57		AGS	902 902 C	C	902 902 C		
12.	Wailuku Court Buildings Renovation Renovating the existing circuit and district court buildings for office use by various agencies. Design Total Funding	B58		AGS		109 109 C	109 109 C		
13.	Kekauluohi Building, Air Conditioning Replace air conditioning equipment components subject to frequent repairs, and add new air conditioning system for the basement archives storage Design Total Funding	B59		AGS		45 45 C	45 45 C		
14.	Kapuaiva Building Renovation Design and construction of improvements to accommodate new occupants Construction Equipment Total Funding	B67	AGS221	AGS	972 972 C	11 11 C	972 983 C		

SECTION 81. Act 263, Session Laws of Hawaii, 1982, Section 2, Item D-4, is amended to read as follows:

- "4. Interstate Route H-2, Oahu [110,000] 310,000
Plans and design for [interchange near] on and off ramps at Mililani Memorial Road"

SECTION 82. Provided, that of the general obligation bond funds appropriated to Water Sources Investigation and Development, Maui (LNR 141), in fiscal year 1983-84, \$50,000, or so much thereof as may be necessary, shall be expended by the Department of Land and Natural Resources for plans, design, construction and equipment for rehabilitation and improvements of existing water systems in areas such as Keanae and Wailuanui, Maui.

SECTION 83. Provided, that the funds appropriated in HTH 430 for planning and design of Hawaii State Hospital facilities shall be used to plan for both the renovation of the existing hospital wherever practicable and the construction of the least extensive new hospital facility.

PART VI. ISSUANCE OF BONDS

SECTION 84. **GOVERNOR'S DISCRETIONARY POWERS.** Where it is deemed in the public interest of the State, the Governor, in his discretion, is authorized to use the state general fund to finance capital improvement projects authorized in this Act, where the method of financing is designated to be the general obligation bond fund.

SECTION 85. **AIRPORT REVENUE BONDS.** The Department of Transportation is authorized to issue airport revenue bonds for airport capital investment projects authorized in Part II and listed in Part V of this Act and designated to be financed by revenue bond funds or by general obligation bond fund with debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the Governor, such additional amounts as may be necessary by the department to increase reserves for the airport revenue bonds and to pay the expenses of issuance of such bonds. The aforementioned airport revenue bonds shall be issued pursuant to the provisions of Part III, Chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of airport revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenue from airports and related facilities under the ownership of the State or operated and managed by the department and the aviation fuel taxes levied and paid pursuant to sections 243-4(a) (2) and 248-8, Hawaii Revised Statutes, or such parts of either thereof as the department may determine, including rents, landing fees, and other fees or charges presently or hereafter derived from or arising through the ownership, operation, and management of airports and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such airport revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the airport revenue fund. The Governor, in his discretion, is

authorized to use the airport revenue fund to finance those projects in Part II where the method of financing is designated to be by airport revenue bond funds.

SECTION 86. HARBOR REVENUE BONDS. The Department of Transportation is authorized to issue harbor revenue bonds for harbor capital investment projects authorized in Part II and listed in Part V of this Act and designated to be financed by revenue bond funds or by general obligation bond fund with debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the Governor, such additional amounts as may be necessary by the department to pay interest on such revenue bonds during the construction period and for six months thereafter, to establish, maintain, or increase reserves for the harbor revenue bonds to pay the expenses of issuance of such bonds. The aforementioned harbor revenue bonds shall be issued pursuant to the provisions of Part III, Chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of harbor revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenues from harbors and related facilities under the ownership of the state or operated and managed by the department, including rents, mooring, wharfage, dockage, and pilotage fees, and other fees or charges presently or hereafter derived from or arising through the ownership, operation, and management of harbor and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such harbor revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the harbor special fund. The Governor, in his discretion, is authorized to use the harbor revenue fund to finance those projects in Part II where the method of financing is designated to be by harbor revenue bond funds.

PART VII. SPECIAL PROVISIONS

SECTION 87. Sand Island income from other lands and facilities, other than those set aside for Harbors or Foreign Trade Zone purposes, shall be deposited into the general fund.

SECTION 88. Provided, that if federal funds in the amounts designated under the Morrill-Nelson Bankhead-Jones Act, Hatch Act, and Smith-Lever Act are received in excess of the amounts authorized, then the general fund appropriations for Instruction-UOH, Manoa (UOH 101), Organized Research-UOH, Manoa (UOH 102), and Public Service-UOH, Manoa (UOH 103), respectively, shall be reduced by the amounts such receipts exceed the federal funds authorized in each year of the fiscal biennium 1983-85.

SECTION 89. There is hereby appropriated out of the public trust fund created by Section 5(f) of the Admission Act (Public Law 86-3, 86th Congress), the total amount of the proceeds from the sale or other disposition of any lands, and the income therefrom granted to the State by Section 5(b) or later conveyed to the State by Section 5(e), with the exception of such proceeds covered under Section 171-19, Hawaii Revised Statutes, to be disposed of by the Board of Land and Natural Resources, and with the exception of such proceeds to be expended by the Office of

Hawaiian Affairs under Chapter 10, Hawaii Revised Statutes, in order to reimburse the general fund for the appropriation made in Part II of this Act to the Department of Education for the support of public schools, to the extent such proceeds are realized for the period beginning July 1, 1983 to June 30, 1985. The above proceeds shall be exclusive of the amount disposed of under the provisions of the Hawaiian Homes Commission Act of 1920, as amended.

SECTION 90. Whenever the expending agency to which an appropriation is made is changed due to legislation enacted during any session of the legislature which affects the appropriations made by this Act, the Governor, or the Director of Finance, if so delegated by the Governor, shall transfer the necessary funds and positions to the proper expending agency, provided that a report for all such transfers shall be made to the legislature by February 1 of the following calendar year.

SECTION 91. All grants to private organizations in this Act are made in accordance with the standard that the private programs so funded yield direct benefits to the public and accomplish public purposes.

SECTION 92. No appropriation authorized in this Act shall be considered to be a mandate, under Article VIII, Section 5, of the State Constitution, for a political subdivision to undertake new programs or to increase the level of services under existing programs of that political subdivision. If any appropriation authorized in this Act falls within the provisions of Article VIII, Section 5, of the State Constitution, such authorization shall be void, and in the case of capital improvement appropriations designated to be financed from the general obligation bond fund, the total general obligation bonds authorized under this Act in Part V shall be correspondingly decreased.

SECTION 93. In allotting funds for social welfare programs, education programs, and other programs and agencies having appropriations which are based on population and workload data as specified in the executive budget document, only so much as is necessary to provide the level of services intended by the Legislature shall be allotted by the Department of Budget and Finance. For this purpose, agencies concerned shall reduce expenditures below appropriations as prescribed by the Department of Budget and Finance if the actual population and workload trend is less than the specified figure. If the caseload trend is higher than the specified figure or the reasonable average daily cost of medical care for the needy and medically needy exceeds the anticipated average sum per patient day, or the caseload trend or average payments for money assistance payments is higher than the specified figure, the Governor is authorized to utilize savings as may be available from any other State program for the purpose of meeting the additional expenses of the social welfare program of the Department of Social Services and Housing.

SECTION 94. With the approval of the Director of Finance, the Department of Health may transfer to the Department of Social Services and Housing funds appropriated to the Department of Health for the care and treatment of patients whenever the Department of Social Services and Housing can utilize such funds to

match federal funds which may be available to help finance the cost of outpatient, hospital, or skilled nursing home care of indigents or medical indigents.

The Department of Social Services and Housing is authorized to enter into agreements with the Department of Health to furnish outpatient, hospital and/or skilled nursing home care and to pay the Department of Health for such care. With the approval of the Director of Finance, the Department of Health may deposit part of such receipts into the appropriations from which transfer were made.

SECTION 95. Unless otherwise provided in this Act, the Governor is authorized to transfer funds between appropriations within an expending agency for operating purposes.

SECTION 96. Where a program is financed by the general fund as well as by a source of funding other than the general fund, the general fund appropriation shall be decreased to the extent that the amount received from the non-general fund source exceeds the amount approved in this Act from such source; provided, that such decrease of the general fund appropriations shall not jeopardize the receipt of the increased amount from the non-general fund source; provided, further, that the preceding requirements shall not apply if the excess receipts are to be expended for a purpose or purposes of the program approved by the Governor or the Director of Finance if so delegated by the Governor.

SECTION 97. For the fiscal biennium 1983-85, where a program is authorized under Part II of this Act to expend from a revolving, special, or trust fund, agencies responsible for such funds are authorized to expend so much as may be necessary to carry out the purpose of each such fund; provided that such expenditures in excess of the amount indicated in Part II are approved by the Governor or by the Director of Finance if so delegated by the Governor; and provided, further, that such expenditure shall not exceed the amounts available in such funds.

SECTION 98. The Governor is hereby authorized to establish 20 permanent positions during each fiscal year of the fiscal biennium 1983-85 to be allocated by him to any of the program areas included in this Act as he shall deem proper. No positions shall be established under this section to implement any collective bargaining agreement signed after this legislature adjourns sine die.

SECTION 99. Any provision of law to the contrary notwithstanding, the Governor is authorized to utilize an appropriate portion of such sums included in the respective program appropriations in Part II of this Act for personal services, for salary increases for public officers and employees excluded from collective bargaining under Chapter 89, Hawaii Revised Statutes; provided that the increases shall not exceed and shall not take effect earlier than increases for comparable members of collective bargaining units.

SECTION 100. Where any agency is able to secure funds or other property from private organizations or individuals, to be expended or utilized in connection with any program authorized by this Act, the Governor or agency with the Governor's approval shall have the power to enter into each undertaking.

SECTION 101. If the State should assume the direct operation of any non-governmental agency receiving state funds under the provisions of this Act, all such

funds shall constitute a credit to the State against the costs of acquiring all or any portion of the property, real, personal, or mixed, of such non-governmental agency. This credit shall be applicable regardless of when such acquisition takes place.

SECTION 102. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in this Act shall not lapse at the end of the fiscal biennium for which the appropriations is made; provided, that all appropriations made to be expended in fiscal biennium 1983-85 which are unencumbered as of June 30, 1986 shall lapse as of that date; and provided, further, that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement as denoted in Section 80 which appropriations in its entirety the Legislature hereby determines are necessary to qualify for federal aid financing and reimbursement.

SECTION 103. The designated expending agency for capital investments appropriated in this Act is authorized to delegate to other state or county agencies the acquisition of land, design, and construction of such projects when it is determined by such agency that it is advantageous to do so; provided that a report of all such delegations for the period ending December 31 of each calendar year shall be made to the first Regular Session of the Legislature convened after such delegations have been made.

SECTION 104. All general obligation bond funds used for highway, harbor, boating, airport, parking facilities or land development capital investment purposes, designated by the letter (D), shall have the bond principal and interest reimbursed from the state highway fund, the harbor special fund, the boating special fund, the airport revenue fund, the parking special fund or the special land and development fund, respectively. Bonds issued for irrigation projects shall be reimbursed, as provided by Section 174-21, Hawaii Revised Statutes.

The Governor is authorized to use, at his discretion, the state highway fund, the harbor special fund, the boating special fund, the airport revenue fund or the special land and development fund to finance the respective highway, harbor, boating, airport or land development projects authorized in this Act, where the method of financing is designated to be general obligation bond fund with debt service cost to be paid from special funds.

SECTION 105. Where county capital improvement projects are partially or totally funded by state grants-in-aid as authorized in this Act or any other act of the Legislature, this fact should be appropriately acknowledged during construction and upon completion of these projects.

SECTION 106. The negotiation for the purchase of land by state agencies shall be subject to the approval of the Governor. Private lands may be acquired for the purpose of exchange for federal lands when the Governor determines that such acquisition and exchange are necessary for the completion of any herein appropriated projects.

SECTION 107. Any law or any provision to the contrary notwithstanding, the Governor may supplement funds for any later phased cost element (construction) for a capital improvement project appropriated under this Act by transferring such

sums as may be needed from the funds appropriated for earlier-phased cost elements (planning, design) for the same project appropriated by the Legislature in this Act or in a prior year or which may be appropriated by the Legislature in the future, provided that the total expenditure of funds for all cost elements for the project shall not exceed the total appropriations for that project.

SECTION 108. If general obligation bond proceeds have been allocated to an appropriation which may be satisfied from general obligation bond proceeds and the amount of such proceeds so allocated is in excess of the amount needed to satisfy such appropriation, the amount of such excess proceeds shall be transferred to a separate account and allocated to the satisfaction of other appropriations which may be satisfied from general obligation bond proceeds made in the same or any other act of the Legislature; provided that such allocations shall not be made subsequent to the lapsing date of June 30, 1986.

SECTION 109. All unrequired balances after the objectives of appropriations made in this Act for capital investment purposes from the general obligation bond fund have been met shall be transferred to the project adjustment fund appropriated in Part II and described in Part V of this Act and shall be considered a supplementary appropriation thereto.

If the amount specified for a capital investment project listed in this Act or authorized by the Legislature in a prior year or in the future is insufficient, and where the source of funding for the project is designated as the general obligation bond fund, the Governor may make supplemental allotments from the project adjustment fund appropriated in Part II and described in Part V; provided that such supplemental allotments from the project adjustment fund shall not be used to increase the scope of the project; provided further that such supplemental allotments for this Act shall not exceed ten per cent of the total cost of the recipient project where such total cost does not exceed one million dollars; and such supplemental allotments for this Act shall not exceed five per cent of the total cost of the recipient project, where such total cost is one million dollars or more; and provided further that a report of such supplemental allotments and transfers into the project adjustment fund for the period ending December 31 of each calendar year shall be made to the Legislature by February 1 of the following calendar year.

SECTION 110. In the event that the amount specified for a capital investment project listed in this Act or authorized by the Legislature in a prior year or in the future is insufficient, and where the source of funding for the project is designated as the general obligation bond fund, the Governor may make supplemental allotments from the project adjustment fund appropriated in Part II and described in Part V of this Act; provided, that such supplemental allotments from the project adjustment fund shall not be used to increase the scope of the project; and provided, further, that such allotments shall be made no later than June 30, 1986.

SECTION 111. If the amount specified for a capital investment project listed in this Act is insufficient and where the source of funding is designated as special funds, general obligation bond fund with debt service cost to be paid from special funds, or revenue bond fund, the Governor may make supplemental allotments from the special fund responsible for cash or debt service payments for the

projects or transfer unrequired balances from other projects in this or prior appropriation acts which authorized the use of special funds, general obligation bond fund with debt service costs to be paid from special funds, or revenue bond fund, provided that such supplemental allotments shall not be used to increase the scope of the project; provided further that such supplemental allotments shall not impair the ability of the fund to meet the purposes for which it was established.

SECTION 112. The Governor may authorize the expenditure of funds for capital investment projects not previously authorized in this Act to cope with unemployment, unforeseen emergencies arising from elements such as fires and natural disasters and for any federal aid portion of any capital investment project described in this Act where application for such aid has been made and approval has been denied; provided, that the unemployment, or such emergencies, or denial of federal aid create an urgent need to pursue a course of action which is in the best interest of the State; and provided further, that the Governor shall use the project adjustment fund authorized in Part II and described in Part V to accomplish the purposes of this section.

SECTION 113. General revenues of the State of Hawaii may be expended by the Governor to cope with unemployment and unforeseen emergencies arising from elements such as fires and natural disasters; provided, that the unemployment, or such emergencies create an urgent need to pursue a course of action which is in the best interest of the State; provided, that the Governor may authorize an increase in repairs and maintenance activities on state facilities to alleviate the unemployment and cope with such emergencies. To accomplish the purpose of this section, the Governor is authorized to transfer to the Building, Repair and Alterations (AGS 233) and the Physical Plant Operations and Maintenance (AGS 807) programs up to \$5,000,000 in savings as may be available from the appropriated funds of any program in this Act.

SECTION 114. Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a capital investment project described in this Act, the Governor may authorize such reduction of project scope; provided, that the scope of a project shall not be reduced merely because the appropriation for a project is insufficient.

SECTION 115. In releasing funds for projects, the Governor shall consider the legislative intent and the objectives of the user agency, its programs, the scope and level of the user agency's intended service; the means, efficiency, and economics by which the project will meet the objectives of the user agency and the State. Agencies responsible for construction shall take into consideration the objectives of the user agency, its programs, the scope and level of the user agency's intended service and construct the improvement to meet the objectives of the user agency in the most efficient and economical manner possible.

PART VIII. MISCELLANEOUS AND EFFECTIVE DATE

SECTION 116. MISCELLANEOUS. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then

ACT 301

the Legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 117. In the event manifest clerical, typographical or other mechanical errors are found in this Act, the Governor is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the Legislature at its next session.

SECTION 118. **EFFECTIVE DATE.** This Act shall take effect on July 1, 1983.

(Approved June 14, 1983.)

Note

1. Item reduced and initialed "GRA", 6-14-83.

TABLES SHOWING EFFECT OF ACTS

GENERAL INDEX

**TABLES SHOWING EFFECT OF ACTS
TWELFTH LEGISLATURE, REGULAR SESSION OF 1983
STATE OF HAWAII**

Key: Am = Amended
N = New
R = Repealed
Ree = Reenacted

Ren = Renumbered
— = Section number to be assigned in HRS
Supplement

A. SECTIONS OF HAWAII REVISED STATUTES AFFECTED

Section No.	Effect	Act No.	Section No.	Effect	Act No.
VOLUME 1			46-4.1	R	133
11-17	Am	124	46-15.2	Am	156
11-23, 41, 61 to 64, 77	Am	34	47-8, 32, 42, 45	Am	64
11-92	R	34	47C-2	Am	64
11-92.1, 92.2, 92.3	N	34	C 48E	R	237
11-97, 112, 113, 117, 118, 134, 135	Am	34	C 48E	N	237
12-3, 6, 41	Am	34	53-23	Am	167
15-9	Am	34	77-13.5	Am	255
24-2, 3	Am	80	81-2	Am	158
26-9	Am	54	88-119	Am	105
		124	88-122	Am	190
		153	89-3.5	Am	124
		224	89-5	Am	10
26-13	Am	260			11
26-14	Am	74	91-14	Am	160
26-15	Am	15	92-17	Am	181
26-16	Am	12	92-24	Am	153
		141	92-28	Am	167
26-18	Am	239	92E-7, 8, 11	Am	91
26-19	Am	43	102-6	Am	108
26H-4	Am	5	103- —	N	277
		21	109- —	N	162
		36			
		56	VOLUME 3		
		201	121-30	Am	70
		276	124A-68	Am	124
27- —	N	247	134-2	Am	72
27-21.2	Am	247	134-3	Am	26
28-31 to 49 (pt III), 51 to 53, 55, 56 (pt IV)	R	78	134-51	Am	267
39-6	R	151	141-1	Am	215
39-6	N	151	141-2	Am	141
39-8, 9, 31, 33	Am	60	142-12	Am	130
39-54	R	151	143-1, 4, 7 to 13	Am	227
39-54	N	151	C 144 (heading)	Am	214
39-56, 64	Am	60	144-1	R	214
			144-2 to 13	Ren, Am	214
			144-14	Ren, Ree	214
			144-15	Ree, Am	214
			145-2, 4, 10	Am	258
VOLUME 2			147- — (2 secs)	N	177
46- — (3 secs)	N	237			

Section No.	Effect	Act No.	Section No.	Effect	Act No.
147-1, 2, 6	Am	257	235-94.5	Am	88
C 147 (pt II heading)	Am	257	C 236	R	217
147-21 to 25, 36, 37, 51, 62, 63	Am	257	237-_____	N	234
147-74, 75, 79	Am	177	237-7	Am	206
148-11 to 20 (pt II)	R	75	237-29	Am	228
171-_____	N	250	237-40	Am	103
171-3	Am	15	238-1	Am	167
171-6	Am	170	241-_____	N	278
171-13	Am	25	247-6	Am	286
171-60	Am	178	249-_____	N	272
171-95	Am	179	249-3, 5	Am	46
171-113	Am	250	266-21	Am	107
176D-4, 7	Am	124	267-10	Am	85
182-4	Am	296	267B-1, 3	Am	85
183-19	Am	59	269-3, 6	Am	219
183-41	Am	170	269-11	R	98
186-9	Am	250	269-12	Am	98
188-_____	N	87	269-14	R	219
188-25	Am	62	269-16	Am	98
188-29	Am	87	269-27.2	Am	243
188-35	Am	145	281-_____	N	292
191-12	Am	83	281-_____	N	293
C 195D (heading)	Am	111	281-31	Am	292
195D-1 to 10	Am	111	281-46	Am	229
199-7	Am	99	286-91	Am	236
201-_____	N	126	286-112	Am	45
201-3	Am	235	286-122	Am	47
202-9	Am	58	286-133	Am	197
C 204	R	89	286-172	Am	154
205-_____	N	49	286-181	Am	94
205-_____ (2 secs)	N	296	290-8	Am	96
205A-1, 22	Am	124	291-_____	N	282
205A-33	Am	76	291-_____ (2 secs)	N	294
206E-3	Am	180	291-4, 5	Am	117
206J-3	Am	239	291-34, 39	Am	188
207-11	Am	61	291C-53	Am	123
207-12	Am	167	294-_____	N	16
209-_____	N	271	294-_____ (2 secs)	N	245
222-2	Am	126	294-1	Am	245
C 224	R	126	294-2, 4, 5	Am	261
VOLUME 3A			294-6	Rec, Am	245
231-1, 3, 6, 12, 23	Am	217	294-9	Am	144
232E-2, 3	Am	212	294-16	Am	2
235-2.3	Am	88	294-30, 31, 31.5	Am	261
235-3	Am	217	294-35	Am	207
235-4	Am	167	294-36	Rec	245
		206	VOLUME 4		
235-5	Am	88	296-11	Am	298
235-12	Am	67	296D-4, 5	Am	256
235-61	Am	206	298-27	Am	169
235-63	Am	88	304-_____	N	152
235-71	Am	167	304-4	Am	139
			304-20	Am	198

Section No.	Effect	Act No.	Section No.	Effect	Act No.
305E-1	Am	139	359L-6	R	225
312-2.1	Am	115	359L-7 to 9	Am	225
312-3.5	Am	134			
314-8	Am	7			
321-____ (2 secs, pt ____)	N	280		VOLUME 5	
321-18	Am	100	373-____ (2 secs)	N	84
321-243	Am	264	373-I, 3, 9	Am	84
322-____ (2 secs)	N	100	373-15 to 18	R	84
322-7	R	100	373-19	Am	84
323-3.5	Am	102	377-4.5	Am	124
325-51	Am	82	383-29.5	Am	124
325-71	Am	81	387-1	Am	44
326-21, 22	Ren, Am	183	392-27	Am	205
327C-1	Am	216	403-62	Am	167
328-____ (2 secs)	N	100	404-8	Am	167
328-____ (2 secs)	N	150	407-25	Am	167
328-I, 8	Am	100	407-95	Am	51
328-25	Am	148			230
329-55	Am	90	408-2.1	Am	191
C 333 (pt I heading)	Am	159	408-13	Am	167
333-1	Am	159	408-14	Am	167
333-11, 12 (pt II)	R	122			253
333E-____ (4 secs, pt II)	N	122	408-15	Am	20
C 333E (pt I heading)	N	122			48
333E-4	Am	121			104
334-60	Am	173			127
338-17.7, 21	Am	65	408-17	Am	127
341-3, 6	Am	140			221
C 343 (heading)	Am	140	408-20	Am	226
343-1 to 3	Am	140	408A-4, 9	Am	233
343-4	R	140	408A-30	Am	232
343-5 to 7	Am	140	409-17	Am	221
346-____	N	66	416-____	N	265
346-____	N	57	C 416 (pts I to VII)	Am	167
346-1	Am	213	416-97	Am	112
		297	416-131	Am	153
346-10	Am	213	416-146	Am	167
346-14	Am	297	C 417	Am	167
346-37.1	Am	41	417-45	Am	124
346-51, 53	Am	196	C 417E	R	167
346-55	R	196	C 418	Am	167
346-59	Am	252	420-2, 3	Am	167
350-1	Am	171	421-5, 6, 21, 21.5, 25	Am	167
352-____	N	157	422-5, 34	Am	167
353-____	N	266			
353-22	Am	184		VOLUME 5A	
356-____	N	86	431-____	N	211
356-206	Am	269	431-35	Am	24
356-302	Am	113	431-45	Am	2
359-62	Am	9	431-59	Am	3
359-151	Am	101	431-114, 161, 162, 387	Am	167
359G-____	N	228	431-397	Am	131
359G-1.1	Am	167	431-471	Am	142
359G-4.1	Am	164	431-581	Am	13
359G-15	Am	228	431-641 to 647	Am	211

Section No.	Effect	Act No.	Section No.	Effect	Act No.
431-693	Am	263	465-6	Am	136
431-694	Am	218	465-7, 8	Am	95
		263	465-10	Am	95
431-714	Am	218			136
433-12	Am	167	465-11	Am	95
436D-3	Am	289	465-12	Am	136
438-3 to 5, 7 to 12	Am	240	465-13	Am	95
439-2, 4 to 7, 9, 10, 12, 15 to 19	Am	210			136
440-_____	N	50	465-14.5	R	95
440-1, 2, 5 to 15, 17 to 21, 25	Am	241	465-15	Am	95
440-26	R	241	466-4	Am	6
440-27, 29 to 33, 35	Am	241	466-5	Am	295
441-24	Am	167	466-8	Am	6
442-2, 4	Am	55	467-8, 9, 9.5, 11, 16, 17, 24	Am	116
442-6	Am	242	468E-8	Am	200
444-1	Am	274	469-1 to 4	Am	53
444-3	Am	275			
444-11, 12, 26, 27, 34	Am	201	VOLUME 6		
448-1, 4, 6	Am	220	482-2	Am	153
448-8	R	220	482-4	Am	167
448-9, 9.5, 10	Am	220	484-3 to 8	Am	175
448-15	Am	167	484-8.5, 8.6, 8.7, 8.8	N	175
448E-1, 4	Am	56	484-10, 13, 15, 16, 20	Am	175
448E-5	Am	38	485-5	Am	167
		56	485-6	Am	29
448E-9, 11, 14	Am	56	486H-1, 5, 6	Am	268
448E-14	R	38	487-_____	N	35
448H-3 to 5	Am	36			
453-2, 3	Am	92	VOLUME 7		
453-3.1	R	92	514A-_____ (4 secs)	N	137
453-4, 5	Am	92	514A-14	Am	137
453-5.1	Ree	92	514A-82	Am	137
453-5.2, 6, 7	Am	92	514A-85	Am	4
453-8	Am	22	514A-88, 89, 94	Am	137
		92	516-_____	N	203
453-8.1, 8.2, 8.5, 8.7, 11, 14	Am	92	516-24, 33	Am	204
454-1 to 3, 3.5, 4 to 7	Am	39	516-33.5, 44	Am	270
454D-3	Am	42	516-51	Am	203
457-1, 4 to 9, 11 to 15	Am	119	516-91, 95, 101 to 104, 107, 108, 111, 121 to 125, 131, 132, 141, 151, 161, 171 to 174, 181, 182, 186 (pt V)	N	270
457B-3, 5, 6	Am	135	519-3	Am	166
457B-8	R	135	521-69, 72	Am	146
457B-10, 12	Am	135	C 523	R	37
458-3, 12	Am	71	560:5-309	Am	124
460-1, 4 to 10, 14	Am	93	560:5-405	Am	28
461-3, 4, 9, 11, 14, 17	Am	23	560:6-108, 6-109	Am	217
462A-3	Am	8	571-8	Am	208
463-1, 5 to 8, 8.5, 9	Am	40	571-11	Am	171
463-17	N	40	571-14	Am	79
464-3, 6 to 12	Am	155			
465-1	Am	136			
465-3	Am	95			
465-4	Ree	136			

Section No.	Effect	Act No.	Section No.	Effect	Act No.
571-41	Am	199	663-1.7	Am	231
571-54	Am	27	669-1, 3	Am	222
		171	671-1	Am	223
571-61	Am	171	671-3	Am	223
571-84	Am	168			284
572-7	Am	259	671-5, 11, 13, 15	Am	223
574-5	Am	251	672-—	N	138
580-10	Am	187	672-4	Am	138
		246	701-108	Am	63
580-47	Am	19	702-206	Am	132
580-51	Am	17	704-—	N	69
580-56	Am	209	704-402 (heading)	Am	124
581-1	Am	124	704-404	Am	172
584-6, 7	Am	288	704-411	Am	281
586-3	Am	18	704-413	Am	189
586-5	Am	186	706-— (2 secs)	N	184
602-55	Am	244	706-670	Am	30
C 603 (pt V heading)	Am	244	706-672	Am	182
603-41	Am	244	708-840, 841	Am	68
604-5	Am	238	709-906	Am	248
		249	709-907	R	248
604-6.2, 7	Am	249	711-—	N	129
605-14	Am	167	712-1221	Am	161
606-13	Am	73	831-3.2	Am	78
	VOLUME 7A		C 846 (heading)	Am	78
633-—	N	279	C 846 (pt I heading)	N	78
633-27	Am	52	846-1, 2, 2.5	Am	78
		249	846-21 to 38 (pt II)	N	78
633-28	Am	249	851-4	Am	32
634-31	Am	153	C 853 (heading)	Am	290
657-8	Am	120	853-1 to 3	Am	290
663-1.5	Am	33			

B. SESSION LAWS OF HAWAII AFFECTED

S.L. No.	Effect	Act No.	S.L. No.	Effect	Act No.
Laws 1977			Laws 1982		
Act 191	Am	124	Act 165	Am	77
Laws 1981			Act 204	Am	124
Act 185	Am	124	Act 251	Am	117
			Act 263	Am	301
			Act 278	Am	163
			Act 283	Am	254

C. SECTIONS OF HAWAIIAN HOMES COMMISSION ACT 1920 AFFECTED

Section No.	Effect	Act No.	Section No.	Effect	Act No.
202	Am	147	213, 225	Am	143
207	Am	125			

GENERAL INDEX

ACT

ABANDONMENT

Unclaimed property	37
--------------------------	----

ACCOUNTS AND ACCOUNTING

Certified public accountant requirements	295
Public accountancy board, termination date	5

ACUPUNCTURE

Practitioners, license exemption	289
----------------------------------------	-----

ADMINISTRATIVE PROCEDURE

Judicial review, transmission of records	160
------------------------------------------------	-----

AGED PERSONS

Housing, tenant selection	9
Social services, confidentiality	213

AGRICULTURE

Board, membership	12
Chicken eggs, marking and certification	177
Emergency farm loans, appropriation	262
Farm produce dealers, license, bonding and fines	258
Feed, adulteration control	214
Grades and standards, general amendments	259
Land evaluation and site assessment	273
Planning and development	215
Poultry labeling requirements, repealed	75
Product promotion and market development	141
Sugar research and development, appropriations	176

ALOHA TOWER COMPLEX

Administrative control and boundaries	239
---------------------------------------------	-----

ANIMALS

Animal diseases and quarantine violations	130
Dog fighting activities, prohibited	129
Feed adulteration testing	214

APPRAISAL

Industrial loans, fees	20
------------------------------	----

APPROPRIATIONS

Agricultural land evaluation and assessment	273
Aloha Studios, Inc., item veto	300
Capital Improvements	283, 301

Claims against the State	106
Criminal injuries compensation	110
Culture and recreation	301
Economic development	301
Emergency farm loans	262
Employment	301
Environmental protection	301
General Appropriations Act	301
Government-wide support	301
Grants-in-aid	301
Hawaiian affairs	202
Health	301
High technology development	152
Higher education	301
Holoholo settlement	14
Housing, reappropriation of Act 283, SLH 1982	254
Hurricane relief, Kauai	185
Individual rights	301
Judiciary Appropriations Act	291
Legislature and legislative service agencies	1
Lower education	301
Mini-OTEC settlement	114
Molokai General Hospital	174
Pacific Housing Assistance Corporation	254
Pacific International Center for High Technology Research	152
Program provisos	301
Public safety	301
Rental assistance	113
Social services	301
Special provisions	301
Sugar research and development	176
Transportation facilities	301

AQUATIC RESOURCES

- Fish (this index)
- Land and Natural Resources (this index)

ATTORNEY GENERAL

Holoholo settlement, appropriation	14
------------------------------------------	----

BANKS

International banking facilities	278
Unclaimed property	37

BARBERS

Board, general amendments	240
---------------------------------	-----

BEAUTY CULTURE

Regulations clarified	210
-----------------------------	-----

BICYCLES

Out-of-state license	272
----------------------------	-----

BOARDS AND COMMISSIONS

See also specific subject	
Consumer complaints, reinstatement of license	181

BOATS AND VESSELS

Regulations	85
-------------------	----

BONDS

Capital Improvements (this index)	
County, general provisions	64
County housing bonds	156
General obligation bonds	
authorization to issue	287
temporary interest rate increase	118
Revenue Bonds (this index)	
Special Purpose Revenue Bonds (this index)	
State	
negotiated sales	151
replacement of issue	60

BOXING

Amendments, generally	241
Suspension of license	50

BUDGET

Executive	301
Hawaiian affairs	202
Judiciary	291

BUDGET AND FINANCE

Aloha Studios, Inc.	300
Service fees	153

CAPITAL IMPROVEMENTS

Bond authorization	287
Capital Improvements Act	283
General Appropriations Act	301
Judiciary Act	291

CATTLE

Wild, control on forest and hunting lands	59
-------------------------------------------------	----

CHILDREN

Abuse, child protective act	171
Birth certificate, legitimation	65

Confidentiality of reports and information, social services and housing	213
Juvenile crime procedure	168
Passenger restraints	282
Paternity actions	288
Paternity or support order, social services and housing procedure	57
Public assistance, criteria	41
Right to counsel	199
Support order	66

CHIROPRACTIC

Examiners board and requirements to practice	55
License examination	242

CIVIL IDENTIFICATION

Criminal justice data center functions	78
----------------------------------------------	----

CLAIMS AGAINST THE STATE

Appropriations	
general claims and refunds	106
Holoholo cases	14

COASTAL ZONE MANAGEMENT

Injunctions	76
-------------------	----

COLLECTIVE BARGAINING IN PUBLIC EMPLOYMENT

Model conversion plan	255
Public employment relations board	
public management committee, deleted	11
quorum	10

COMMERCE AND CONSUMER AFFAIRS

See also specific business, profession or occupation (this index)	
Consumer complaints, reinstatement of suspended license	181
Factory built housing	225
Insurance (this index)	
Investigatory subpoenas	54
Service fees	153
Special handling fees	112
Unlicensed activities, powers to enjoin	224

COMMUNITY DEVELOPMENT AUTHORITY

Administrative control	239
Appointment of members	180
Membership	180

CONCESSIONS

Bid deposits	108
--------------------	-----

CONDOMINIUMS

Common expenses, unpaid assessments, record of receipts and expenditures	4
General amendments	137

CONSERVATION

Inclusion of aquatic life	111
---------------------------------	-----

CONSUMER PROTECTION

Actions, appointment of receiver	35
Commodity mark-up violations during disasters, enforcement	271

CONTRACTORS

Federal projects, state license required	274
Licensing board	
extension	201
membership change	275
Public contracts, prompt payment to subcontractor	277

CONTROLLED SUBSTANCES

Forfeiture, seized property	90
-----------------------------------	----

CONVEYANCE TAX

Certificate of conveyance, disclosure of information	286
------------------------------------------------------------	-----

COOPERATIVE HOUSING CORPORATIONS

Residential lease renegotiation	166
---------------------------------------	-----

CORPORATIONS

Business Corporation Act, generally	167
Capital surplus distribution	265
Service corporation	
investments	230
powers	51
Special handling fees	112

CORRECTIONAL FACILITIES

Class A felons, conditional release and bail lowering prosecutor notification	266
Probation (this index)	

COSMETOLOGISTS

Registration and certification required	210
-----------------------------------------------	-----

COUNTIES

Children, paternity or support order	57
Dog control	227
Housing, bond issue	156
Pollution control special purpose revenue bonds	237

Vehicular controls	46
Zoning	
board of appeals, membership limits repealed	133
public housing exemption	164

COURTS

Administrative hearings appeal	160
Class A felons, conditional release and bail lowering recommendations by intake service center	266
Consumer protection actions receiver	35
Criminal procedure	
commencement of prosecution	63
records for forensic examiners	172
District Court (this index)	
Family Court (this index)	
Public defender, transcripts	73
Retired judges, temporary assignment	244
Traffic records	154
Uniform enforcement of foreign judgments	31

CREDIT CARDS

Misuse prohibited	32
State hospital charges	102

CREDIT UNIONS

Group life insurance	13
----------------------------	----

CRIMES AND CRIMINAL JUSTICE

Credit card misuse	32
Criminal injuries compensation, appropriation	110
Data center functions	78
Law Enforcement (this index)	
Penal Code (this index)	

CULTURE AND THE ARTS

Sculpture, Kauai state building	128
---------------------------------------	-----

DAMAGES

School vandalism, restitution	169
-------------------------------------	-----

DEATH

Determination of death	216
Funeral directors, funeral directors and undertakers license	53

DENTISTRY

General amendments	220
--------------------------	-----

DESIGN PROFESSIONALS

Conciliation panel, jurisdiction	138
----------------------------------------	-----

DEVELOPMENTAL DISABILITY

Community services, established	122
Council, membership	121

DISASTERS

Commodity mark-ups, governor authorized to prohibit certain increases	271
-----------------------------------------------------------------------------	-----

DISEASES

Animals, quarantine	130
Congenital syphilis, testing	82
Hansen's disease, patient employees	183
Hypothyroidism testing	159
Tuberculosis control	81

DISTRICT COURT

Jurisdictional amount increased	238
Powers and service of documents	249
Small claims	
jurisdictional amounts	52
mode of service	249
order to show cause	249
shopping cart removal	279

DIVORCE AND SEPARATION

Alimony upon remarriage	17
Division of property	209
Restraining orders	
protection of property	187
protection of spouse or child	246
Support, court jurisdiction	19

DOGS

Controls	227
----------------	-----

DOMESTIC ABUSE

Family Court (this index)

DRIVERS

Illegal operation by unlicensed driver	197
Instructors, certification	236
Intoxicating liquor, driving under the influence of	117
Minors, licensing	45
Suspension or revocation	47
Traffic records	154

DRUGS

Forfeiture, seized property	90
-----------------------------------	----

EDUCATION

Driver training instructors, certification	236
Occupational and career information	193
Pupil transportation	94
School priority fund, reports required	256
Superintendent, certain annual reports	298
Teacher education coordinating committee meeting schedule	198

ELECTIONS

General amendments	34
--------------------------	----

ELECTRICIANS AND PLUMBERS

Board termination date	56
Licensing requirements	38

ELECTRICITY

Non-fossil fuel	243
-----------------------	-----

ELEVATOR MECHANICS

Board	36
-------------	----

EMPLOYEES RETIREMENT SYSTEM

Allowance for early retirement, Act 165, SLH 1982, amended	77
Investments second mortgages, purchase of fee simple interest	105
Yield rate investments	190

EMPLOYMENT

Job Training Partnership (this index)	
Moratorium on workers' compensation insurance premium rates	299
Occupational and career information	193
Temporary disability insurance	205

EMPLOYMENT AGENCIES

Licensing procedures	84
----------------------------	----

ENERGY

Heat pumps, income tax credits	67
Mini-OTEC settlement	114
Natural energy laboratory, administrative control	239

ENGINEERS, ARCHITECTS AND SURVEYORS

Board of registration, termination date	276
Registration	155

ENVIRONMENTAL QUALITY

Reorganization and consolidation of state program	140
---------------------------------------------------------	-----

ESTATE AND TRANSFER TAX

Generally	217
-----------------	-----

ETHANOL

Special purpose revenue bonds	109
-------------------------------------	-----

ETHICS COMMISSION

Operating expenses, appropriation	1
-----------------------------------------	---

FAIRS

State fair law, repealed	89
--------------------------------	----

FAMILY COURT

Appeals	27
Child protective act	171
District judges, assignment	208
Divorce and Separation (this index)	
Domestic abuse	
jurisdiction	79
procedure	18
protective order	186
Juveniles	
disclosure of records	168
right to counsel	199
Paternity actions	288
Public assistance for dependent child, debt determination	41

FEED

Adulteration control	214
----------------------------	-----

FILM INDUSTRY

Aloha Studios, Inc.	300
Commercial promotion	235

FIREARMS

Brought into State, registration	72
Permits to acquire, alien law enforcement officers	26
Unauthorized carrying, fine increase	267

FISH

Restrictions	
bullpen traps	87
Kailua Bay, Hawaii	145
spears	62

FOOD, DRUGS, AND COSMETICS

Adulteration or misbranding, access to records	148
General amendments	100

Unpackaged processed food, merchandising	150
FORESTS	
Hearings, board representation	170
Molokai development program	250
FRAUD	
Credit card misuse	32
FUNERAL DIRECTORS AND UNDERTAKERS	
License	53
GAME	
Birds and mammals, permit to take	83
GASOLINE DEALERS	
Duties	268
GENERAL EXCISE TAX	
Exemption for certified low- and moderate-income housing	228
Refunds	103
Rental collections	234
Service business or calling, defined	206
GRADES AND STANDARDS	
Agricultural and food products, general amendments	257
Chicken eggs, marking and certification	177
HANSEN'S DISEASE	
Employment of patients, compensation	183
HARBORS	
Pilotage, annual report repealed	8
Small boat harbors, moorage of commercial vessels	107
HAWAIIAN AFFAIRS	
Appropriations	202
HAWAIIAN HOME LANDS	
Commission, membership	147
License for utility easements	125
Revolving and special funds, deposits of moneys earned through investments	143
HEALTH	
Board of health, membership changed	260
Credit card use for state hospital charges	102
	803

Developmental Disability (this index)	
Diseases (this index)	
First aid, tort liability exemption for publication of emergency information	33
Food, Drugs, and Cosmetics (this index)	
Hemophilia financial assistance	280
Hypothyroidism test	159
Insurance, proof of losses	142
Medicaid, reimbursement and demonstration project	252
Nuisances, general amendments	100
Placement of defendants in least restrictive environment	281
Psychiatric facilities, involuntary commitment	173
School complex, registered professional nurse	264

HEMOPHILIA

Financial assistance fund	280
---------------------------------	-----

HIGH TECHNOLOGY DEVELOPMENT

Generally	152
-----------------	-----

HOLOHOLO

Settlement, appropriation	14
---------------------------------	----

HORIZONTAL PROPERTY REGIMES

Condominiums (this index)	
---------------------------	--

HOSPITALS

Administration and management state program	247
Credit card use for state hospital charges	102
Loans, Molokai General	174
Special Purpose Revenue Bonds (this index)	

HOUSING

Bonds	
county issue	156
loan program, extended	163
Cooperative housing renegotiation of leases	166
Development revolving fund, government assistance programs	101
Eligible borrower loan and mortgage programs, income limits	269
Factory built housing	225
Mortgage guarantee fund, reappropriation	254
Mortgages (this index)	
Public projects	
delinquent accounts	86
elderly tenant selection	9
Rental assistance program, eligible projects	113
Residential Leasehold (this index)	
Tax exemption, income earned and obligations issued	228
Zoning, exemption from county requirements	164

HUMAN SERVICES

Social Services and Housing (this index)	
------------------------------------------	--

IMMIGRANT SERVICES CENTER

Service contracts authorized	58
------------------------------------	----

INCOME TAX

Conformance to Internal Revenue Code	88
Credits, heat pumps	67
General tax credit for 1983	97
Nonresident spouse, apportionment of income	206

INDUSTRIAL LOAN COMPANIES

Appraisal fees	20
Consumer and commercial leasing	253
Exclusiveness of name, exception	191
Guaranty, Federal Deposit Insurance Corporation	233
Guaranty initiation fee	232
Loan charges	48
Payment receipt not required unless requested	221
Prepayment charges	104
Retail installment contracts clarified	127
Sale of loans	226

INHERITANCE AND ESTATE TAXES

Repealed	217
----------------	-----

INJUNCTIONS

Coastal zone management program violations	76
--------------------------------------------------	----

INSURANCE

Annual report	2
Claims insurers reports	24
Credit unions, limit on group life	13
Insurer examination expenses	3
Medical proof of losses	142
No-fault Insurance (this index)	
Premiums	
publication of rates	2
reporting and accounting	131
Rate filings	218
Temporary disability initial filing of claim	205
Unfair practices and frauds, general amendments	211
Workers Compensation (this index)	

INTAKE SERVICE CENTER

Conditional release and bail lowering, prosecutor notification	266
----------------------------------------------------------------------	-----

INTERNATIONAL COMMERCE

Planning and economic development	239
-----------------------------------------	-----

INTOXICATING LIQUOR

Dispensers' licenses	292
Driving under influence of intoxicating liquor	117
Pool buying by licensees, agreement completed	229
Purchase from a primary source of supply required, penalty	293

JOB TRAINING PARTNERSHIP

Dislocated workers	195
Program authorized	194

JUDICIARY

Appropriations	291
Courts (this index)	

KAUAI

Hurricane relief, appropriation	185
Sculpture for state building	128

LABOR AND INDUSTRIAL RELATIONS

Job Training Partnership (this index)	
Occupational and career information	193

LAND AND NATURAL RESOURCES

Aquatic, wildlife, and aquacultural programs	15
Board appointment of masters or hearing officers	170
Conservation, inclusion of aquatic life	111
Fish (this index)	
Game birds and game mammals, permit to take	83
Geothermal resource subzones	296
Molokai forest lands management program	250
Public lands	
developmental leases	178
disqualification lease or purchase	25
easements to public utilities	179
Seizure and forfeiture of property	99
Wild cattle control	59

LANDLORD AND TENANT

Notice to tenant of breach or noncompliance	146
---------------------------------------------------	-----

LANDSCAPE ARCHITECTS

Engineers, Architects and Surveyors (this index)	
--------------------------------------------------------	--

LAND USE

Agricultural land evaluation and site assessment	273
Boundary amendment, fees	49
Commission, administrative control	239
Geothermal resource subzones	296

LAW ENFORCEMENT

Boats and vessels, trespass	85
Conservation and resources forfeiture of seized property	99
Health violations	100

LEASES

Industrial loan companies consumer and commercial leasing	253
Mining	296
Renegotiation, cooperative housing corporation	166
Residential Leaseholds (this index)	

LEGISLATIVE AUDITOR

Operating expenses, appropriation	1
-----------------------------------------	---

LEGISLATIVE REFERENCE BUREAU

Land evaluation and site assessment	273
Operating expenses, appropriation	1

LEGISLATURE

Allowances	80
Appropriations	1

LIBRARIES

Detention of materials subject to charge	134
State librarian, appointment and salary	115

LIEUTENANT GOVERNOR

Order of name change	251
----------------------------	-----

LIMITATION OF ACTIONS

Damages, real property improvements	120
-------------------------------------------	-----

MARRIAGE

Syphilis and rubella tests	259
----------------------------------	-----

MASTECTOMY

Informed consent standards	284
----------------------------------	-----

MEDICAID

Reimbursements and demonstration project, established	252
-------------------------------------------------------------	-----

MEDICAL TORTS

Informed consent standards	284
Osteopaths, inclusion under law	223

MEDICINE AND SURGERY

- Health (this index)
- Physicians and Surgeons (this index)

MENTAL HEALTH

- Involuntary hospitalization 173

MENTAL RETARDATION

- Developmental Disabilities (this index)

MINING LEASES

- Expenses of exploration, reimbursable 296

MINI-OTEC

- Settlement 114

MOLOKAI

- General hospital, loan 174
- Trees, development program 250

MORTGAGES

- Brokers and solicitors, licensing and branch offices 39
- Foreign lenders 61
- Servicing and collection agents, letter of credit 42

MOTION PICTURES

- Operators, licensing 38
- Operators regulations eliminated 56

MOTOR VEHICLES

- Auto salespersons excluded from wage and hour law 44
- County regulations and controls 46
- Derelicts classification and conditions 96
- Drivers (this index)
- Mopeds, unlicensed operation 197
- Motorcycles permitted in carpool lanes 123
- No-fault Insurance (this index)
- Safety, school buses 94
- Size and weight allowable on interstate highways 188
- Sun screening devices 294
- Traffic records 154

NAME

- Change of 251
- Industrial loan implication exemptions 191

NATIONAL GUARD

Nonemergency call-up	70
----------------------------	----

NO-FAULT INSURANCE

Optional coverage, renewal	144
Payment of benefits	261
Premium, prohibition on increases	16
Reimbursement by insurer	207
Report to legislature	2
Uninsured motorists	245

NURSES

Board membership and annual report, member requirements	119
Registered professional nurse at school health complex	264

NURSING HOMES

Board of examiners	135
Demonstration project	192

OCCUPATIONAL AND CAREER INFORMATION

Generally	193
-----------------	-----

OCEAN RESOURCES

Planning and economic development	239
-----------------------------------------	-----

OFFICE MACHINES

Fair dealership practices	285
---------------------------------	-----

OMBUDSMAN

Operating expenses, appropriation	1
-----------------------------------------	---

OPTICIANS

Board of dispensing opticians, annual report not required	71
-----------------------------------------------------------------	----

OSTEOPATHY

Medical torts law, inclusion	223
Technical amendments	93

PEER REVIEW

Professional and specialty societies, immunity from liability	231
---------------------------------------------------------------------	-----

PENAL CODE

See also Correctional Facilities (this index)	
Conditional release, psychological or psychiatric treatment	189
Cruelty to animals, dog fighting	129
Defendant committed to custody of health director	281
Deferred acceptance of nolo contendere pleas	290

Limitation of actions, commencement of prosecution	63
Paroles minimum term and recommitment	30
Prisoner redirection program and place of confinement	182
Probation, notice to victims	184
Promoting gambling in the first degree	161
Robbery, elements clarified	68
Sanity examinations, independent diagnoses and opinions required	172
Spouse abuse	248
States of mind	132
Supervision of person on conditional release	69

PERSONAL PROPERTY

Unclaimed	37
-----------------	----

PHARMACY

Board annual report, repealed	23
-------------------------------------	----

PHYSICIANS AND SURGEONS

Congenital syphilis, testing	82
Determination of death	216
Licensing	
general amendments	92
revocation, limitation, suspension	22
Medicaid	252
Osteopathy (this index)	

PILOTAGE

Board of commissioners, annual report, repealed	8
-------------------------------------------------------	---

PLANNING AND ECONOMIC DEVELOPMENT

Agricultural planning	215
Community Development Authority (this index)	
Film production industry	235
High technology development	152
Mini-OTEC settlement	114
Population and planning	126
Product promotion and market development, transfer of function	141
State duties and functions redefined	239
State fairs, repeal	89

POLLUTION CONTROL

Special purpose revenue bonds	237
-------------------------------------	-----

POPULATION

Planning and management, functions transferred	126
------------------------------------------------------	-----

POULTRY

Chicken eggs, marking and certification	177
Labeling requirements repealed	75

PRIVATE DETECTIVES AND GUARDS

Licensing	40
-----------------	----

PROBATE CODE

Protective proceedings, notice	28
--------------------------------------	----

PROBATION

Prisoners, notice to victims	184
Supervision of person on conditional release after hospitalization	69

PROFESSIONS AND OCCUPATIONS

See also specific profession or occupation
Sunset Law (this index)

PSYCHOLOGY

Certification to practice and annual report	136
General amendments	95

PUBLIC ACCOUNTANCY

Board annual reports, repealed	6
Board termination date	5

PUBLIC ASSISTANCE

Social Services and Housing (this index)

PUBLIC CONTRACTS

Concessions bid deposit	108
General contractors, prompt payment to subcontractors	277

PUBLIC DEFENDER

Court transcripts	73
-------------------------	----

PUBLIC EMPLOYMENT

Advisory committee on training, meeting schedule	158
Collective Bargaining in Public Employment (this index)	
Compensation, model conversion plan	255
Hansen's disease patients	183

PUBLIC LANDS

Land and Natural Resources (this index)

PUBLIC UTILITIES

Attorneys, appointment by commission	219
Easements	
Hawaiian home lands	125
public lands	179

Electricity from nonfossil fuel, rate payable	243
Hearing procedure	98
Rule-making and appointing authority	219
QUIETING TITLE	
Notice and good faith	222
RADIO AND TELEVISION	
Public broadcasting board, rule-making	7
REAL ESTATE SALES	
Commission, termination date	21
Licensing and damages	116
Uniform Land Sales Practices Act, amendments	175
REAL PROPERTY	
Improvements limitation of actions	120
Quieting title	222
RECORDS	
Children, confidentiality	213
Personal	91
Service fees	153
Traffic	154
RESIDENTIAL LEASEHOLDS	
Eminent domain proceedings	
evidence and compensation	204
evidence and parties	203
Fee title acquisition loans	270
REVENUE BONDS	
Fee title acquisition loans	270
Home loans	163
ROBBERY	
Elements clarified	68
SAVINGS AND LOAN ASSOCIATIONS	
Service corporations, investments, powers	51, 230
SCHOOLS	
Buses, safety	94
Priority fund, reports	256
Registered professional nurse at health complex	264
Vandalism damages, restitution	169

SECURITIES

Exempt transactions	29
---------------------------	----

SHOPPING DEVICES

Unauthorized removal	279
----------------------------	-----

SMALL LOAN COMPANIES

Payments receipt not required unless requested	221
------------------------------------------------------	-----

SOCIAL SERVICES AND HOUSING

Board of social services, restructured	74
Child protective act	171
Confidential information	213
Health maintenance organization demonstration project	252
Nursing home without walls demonstration project	192
Occupational and career information	193
Paternity actions	288
Prisoners redirection program and place of confinement	182
Public assistance	
children debt determination	41
eligibility of child	196
paternity or child support order	57
support order for child	66
Security net	297
Youth correctional facilities, disclosure	157

SPECIAL PURPOSE REVENUE BONDS

Aloha Studios, Inc.	300
Ethanol plant, appropriation	109
Pollution control	237
Queen's medical center and Kaiser foundation hospitals	149
Wahiawa general hospital	165

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

Licensure exemption	200
---------------------------	-----

SPOUSE ABUSE

Penal code	248
Restraining order	246

STADIUM AUTHORITY

Auction of unclaimed property	162
-------------------------------------	-----

STATUTES

Hawaii Revised Statutes, technical revisions	124
----------------------------------------------------	-----

SUGAR

Ethanol plant, special purpose revenue bonds	109
----------------------------------------------------	-----

Research and development, appropriation	176
-----------------------------------------------	-----

SUNSET LAW

Contractors licensing board	201
Elevator mechanics licensing board	36
Engineers, architects, surveyors, board of registration	276
Public accountancy board	5
Real estate commission	21

TAXATION

Conveyance tax, disclosure of information	286
Estate and transfer tax	217
General Excise Tax (this index)	
General tax credit for 1983	97
Income Tax (this index)	
International banking facilities	278
Tax review commission, replacement	212
Trees yield tax	250

TEMPORARY DISABILITY INSURANCE

Time limit for initial filing of claim	205
----------------------------------------------	-----

TORTS AND TORTFEASORS

Design professionals	138
First aid emergency information, exemption from liability	33
Peer review, professional and specialty societies, immunity	231

TRAFFIC CONTROL

Child passenger restraint	282
Drivers (this index)	
Motor Vehicles (this index)	

TRANSPORTATION

Boating regulations	85
Child passenger restraints	282
Commission, membership changed	43
Harbors (this index)	
School vehicles	94

TREES

Molokai program	250
-----------------------	-----

TRESPASS

Boats and vessels, enforcement	85
--------------------------------------	----

UNCLAIMED PROPERTY

Stadium authority, auction	162
Uniform act, adopted	37

UNIFORM UNCLAIMED PROPERTY ACT

Adopted	37
---------------	----

UNIFORM LAND SALES PRACTICES ACT

Amendments	175
------------------	-----

UNIFORM PARENTAGE ACT

Paternity actions	288
-------------------------	-----

UNIVERSITY OF HAWAII

College-credit equivalency program, military training program courses acceptable ..	139
Occupational and career information	193
Pacific International Center for High Technology Research	152
Teacher education coordinating committee	198
Tuition, reciprocal nonresident waivers	139

VICTIMS

Criminal injuries compensation	110
Probation of convicted persons, notice	184

VITAL STATISTICS

Birth certificate child, legitimization of child	65
Records, copies	91

WAGES AND HOURS

Individuals exempt	44
--------------------------	----

WATER

Reserve zone hearings, board representation	170
---------------------------------------------------	-----

WORKERS COMPENSATION

Investment income	263
Moratorium on insurance premium rates	299

YOUTH CORRECTIONAL FACILITIES

Escapees, disclosure	157
----------------------------	-----

ZONING

Board of appeals, membership limits repealed	133
Housing, exemption from county requirements	164